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NOMINATION OF WILLIAM K. REILLY

HEARING

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

THE NOMINATION OF WILLIAM K. REILLY TO BE ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY

JANUARY 31, 1989

Printed for the use of the Committee on Environment and Public Works

U.S. GOVERNMENT PRINTING OFFICE
94-373 WASHINGTON : 1989

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

5321-12

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NOMINATION OF WILLIAM K. REILLY

TUESDAY, JANUARY 31, 1989

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, DC.

The committee met, pursuant to notice, at 10:03 a.m., in room 406, Dirksen Senate Office Building, Hon. Quentin N. Burdick (chairman of the committee) presiding.

Present: Senators Burdick, Chafee, Moynihan, Symms, Baucus, Lieberman, Reid, Lautenberg, Mitchell, Durenberger, Jeffords, Breaux, Simpson, Warner, Graham, and Humphrey.

Also present: Senators Wallop, Wilson, and Robb.

OPENING STATEMENT OF HON. QUENTIN N. BURDICK, U.S. SENATOR FROM THE STATE OF NORTH DAKOTA

Senator BURDICK. Good morning.

The Committee on Environment and Public Works is meeting today to consider the nomination of William K. Reilly to be the Administrator of the Environmental Protection Agency.

I would like to welcome Mr. Reilly to the committee. I would also like to extend a special welcome to Senators Wilson, Robb, and Wallop, along with Committee Members, Senators Warner and Graham. These Senators will be introducing Mr. Reilly and providing testimony on his behalf.

It is clear that the environment is not a partisan issue. All Americans want a safe and clean environment. I am delighted that the President has nominated a person to head the EPA who appreciates that a great nation must be a good steward of its land, air, water, and natural resources.

In this new Congress the committee will be addressing the national and global issues before us. We will welcome the help of the Administrator of the EPA and clean air will again be a high legislative priority. With EPA's helping hand, I believe it will be possible to build on the committee's previous work and to enact legislation this year.

A second committee priority will be the Solid Waste Disposal Act. Subcommittee Chairman, Senator Baucus, laid much of the groundwork for this effort in hearings during the last Congress. Annual waste management solutions have been identified. These include the waste reduction measures. I believe that timely improvements can be made to the law, particularly if EPA joins in the effort.

Ground water protection will be another important issue for us in the new Congress. We came very close to completing the work on the Cooperative Research Bill last year. I hope that we can pick up where we left off and quickly enact legislation to guide the Nation's ground water policy.

International environmental issues will also be at the top of our agenda. Global warming and ozone depletion require serious thought but prompt attention. We cannot afford to ignore these difficult problems.

I believe that EPA should take the lead in coordinating research and implementing legislation on global climate change and ozone layer depletion. Therefore, I have cosponsored legislation to elevate EPA to cabinet status. An EPA with cabinet status will help assure that we do not shortchange environmental issues when decisions are made. I hope that Congress will move quickly to adopt legislation to make this happen. As in the last Congress, I also expect that we will be busy with oversight activities.

Mr. Reilly has extensive experience with many environmental issues. He is familiar with the process and the people. We all share a common goal: a cleaner environment. With hard work and cooperative effort, I believe this new breeze blowing in this country will bring us cleaner air, land, and water.

I look forward to working with you, Mr. Reilly, toward this goal. I will now recognize Senator Chafee.

Senator CHAFEE. Thank you, Mr. Chairman. If agreeable with you, I know that Senators Wallop and Warner have other commitments, and I would be prepared to yield to them to go forward with their introduction and then come back, if that will be satisfactory.

Senator BURDICK. That will be fine, if there are no objections. Senator Wallop?

STATEMENT OF HON. MALCOLM WALLOP, U.S. SENATOR FROM THE STATE OF WYOMING

Senator WALLOP. Good morning, Mr. Chairman, and thank you.

I am pleased to be here this morning to endorse Bill Reilly, President Bush's nominee for Administrator of the Environmental Protection Agency. In my view, he is an excellent choice and I am pleased to add my endorsement.

The committee might well wonder what an old conservative like me, described by Time Magazine as "a humorless idealogue" is doing here endorsing a nice young conservative like Bill Reilly—I do it because I have worked with him for a long time. When I was the Chairman of the Subcommittee on Public Lands, he was a great help when we put together the workshops on alternatives to fee ownership of public land.

Did I always agree with him? Absolutely not. Did I find him someone that I could go and talk to and reason with and argue out? Absolutely, every single time. Did I always change his mind? Absolutely not. Did I wish sometimes that I had been able to? Of course. Mr. Chairman, when somebody has been in a position with as much respect as Bill Reilly has been, to have not fallen to the depths where he would think his opinion is always right and need no longer listen, is a rare and wonderful quality, and I respect him.

I worked with him on the President's Commission on Americans Outdoors, and on the basis of his earlier work on the Recreation

Committee. I found in Bill a reasoning and reasoned conservationist. I think that the EPA can use a reasoning and reasoned conservationist.

I believe the problems—some of which you described, Mr. Chairman—are serious problems in America today, and they will not be solved by people who promote symbol over substance. They will not be solved by people who arrive with an agenda other than the best solution available with best scientific advice and best reasoned economic advice available in each of the instances which come.

I believe that Bill has demonstrated time and time again that he can and will listen. I believe that he has demonstrated that he can be reasoned with and that he will listen to arguments and persuasion. He will listen to all sides and he will come down with judgments which, I believe, can be respected throughout the country. I do not sit here today telling you that I will endorse every consequent action that he may undertake. That would be unreasonable.

I would ask, Mr. Chairman, that the full text of my statement be placed in the record and that the committee be assured that I am pleased, proud, and comfortable to be sitting here beside Bill Reilly today as you consider his nomination to be Administrator of the EPA.

Senator **Burdick**. Your statement will be included in the record.

[Senator Wallop's statement follows:]

OPENING STATEMENT OF HON. MALCOLM WALLOP, U.S. SENATOR FROM THE STATE OF WYOMING

Mr. Chairman, I am pleased to present to the Committee William Reilly, President Bush's nominee for Administrator of the Environmental Protection Agency. He is an excellent choice, and I am pleased to endorse him.

Having previously served on your committee, I have long been involved in drafting some of the laws EPA must implement. I also was an integral part of the Superfund reauthorization as a member of the Senate Finance Committee. I have a good grasp of EPA's mission. It is perhaps the toughest Federal department to head because of the many complex scientific and legal issues before it.

Today's hearing is devoted to determining whether William Reilly can handle this challenge. I have worked with Bill in a slightly different context then the world of EPA. As the senior Republican member of the Energy Committee's Public Lands Subcommittee, I have focused on issues regarding national parks and forests, and the natural resources held by our country in public trust. it is through these matters that I have worked with, and have come to know and respect, Bill Reilly.

Several years ago, he worked closely with my Subcommittee on Public lands to chair workshops on alternatives to public land acquisition as we sought new ways to protect America's most treasured landscapes consistent with the realities of an overextended federal budget and a lower federal intrusion into the lives of our people. As a Westerner, the issue of public versus private land use is a high profile issue for me. I understand that some earlier comments by Mr. Reilly have created concerns about his attitudes towards private land holdings, and I look forward to the dialogue today on this matter, but I have never in all my personal dealings with him, heard him give anything but completely rational support to the idea of private property rights and minimal government intrusion.

His contributions were important and impressive to the work of the Commission on American Outdoors, on which I served; and to the task force on Outdoor Recreation for America, whose 1983 report set out a compelling rationale for revisiting the programs and assumptions of the earlier national study, the Rockefeller Recreation Commission. This work was our starting point for Americans Outdoors.

Under Bill's leadership, the Conservation Foundation devoted considerable attention and private resources to assessing the needs of the National Park System. That report, "National Parks for a New Generation," has some useful guidance about the future of the National Park System's problems and financial constraints.

The business of this Committee and of EPA is environmental quality. I cite these examples of Mr. Reilly's work and contributions because it is through them that I have come to know him. And I think they offer insight into how he will approach his new responsibilities at EPA should the Senate confirm him.

Let me say that Bill Reilly is an articulate and persuasive spokesman for conservation. His commitment is genuine, his passion deep. But, I have never known him to be doctrinaire. He is open and accessible to ideas and to a wide spectrum of views. He is thoughtful in his response. He values innovation. He is sensitive to the relationships among conservation goals and our many other national priorities. Of particular note, is Bill's sensitivity to the economic context in which environmental goals must be pursued; he has repeatedly and consistently observed that a healthy economy is essential to generate the resources for environmental protection, just as a healthy environment is essential to our economic well-being.

Mr. Chairman, William Reilly has devoted his career to finding sensible solutions to complex environmental problems—solutions that are rooted in our nation's traditions and values, respectful of due process and private initiative. I have every confidence that he will bring these same sensitivities, this same respect for our traditions to the top post at EPA.

I also have every confidence that I will from time to time disagree with him, but then that character trait which I most admire will serve us both. He listens. If I can be persuasive he is courageous enough to change. If I cannot he understands the nature of the process in our democracy for confrontation on the floor without losing either civility or the ability to listen as new conflicts arise again at some future time. This is a most admirable, and in Washington—rare, trait.

Thank you, Mr. Chairman. I urge you to give Bill Reilly a speedy confirmation.

Senator **Burdick**. Senator Warner?

STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator **Warner**. Thank you, Mr. Chairman, Senator Chafee, and members of the committee.

I join my distinguished colleagues in endorsing this fine American for this very important post. The position of the EPA Administrator is among the most demanding in the Federal Government. The environmental challenges that confront our Nation are as fundamental as the air we breathe, the water we drink, and the land we live and work on.

Decisions made by the EPA Administrator affect every city, every town, and every citizen in this country. We in the Congress are truly fortunate that Bill Reilly is the President's nominee to head this important agency, and we in Virginia are especially proud of him.

He has rightfully been called a "world-class" environmentalist. It is a title few others can share, and it has been earned through years of leadership, vision, and accomplishment.

By training, Bill is an attorney and an urban planner. He served at the Federal level during the earliest days of America's effort to reverse our environmental decline as a senior staff member of the President's Council on Environmental Quality from 1970 to 1972. In 1973 he became President of the Conservation Foundation, one of this country's most respected environmental organizations. For 15 years, Bill has led the Conservation Foundation, building it into a thoughtful and effective organization for environmental progress. In 1985 he also became President of the World Wildlife Fund, an internationally respected organization dedicated to preserving the diversity of life around the globe.

I believe that because of his training, his career experiences, and his international stature, Bill is well suited to carry out the responsibilities given him by the President. His reputation as a thoughtful leader who solves problems through aggressive negotiations and consensus building wherever possible, gives us all hope that the era of environmental confrontation and polarization may soon be behind us.

Mr. Chairman, before our committee gives Bill Reilly its support, it would be helpful for us to learn where Bill gets some of his most important support. He is joined here today by his wife Elizabeth and their two daughters Margaret and Katherine. I am pleased to be seated here today with Bill Reilly, a long-time resident of Virginia. I heartily endorse his nomination, for he has proven himself to be a man of integrity, ability, experience, and above all, honesty.

Senator **Burdick**. Thank you.

Senator Robb?

STATEMENT OF HON. CHARLES S. ROBB, U.S. SENATOR FROM THE COMMONWEALTH OF VIRGINIA

Senator **Robb**. Thank you, Mr. Chairman, Senator Chafee, members of the committee.

Few issues enjoy the kind of broad bipartisan support that environmental protection does. The American people overwhelmingly support a strong and aggressive Environmental Protection Agency. During the past two decades, the Congress has responded to that public support by enacting a series of far reaching laws to protect our Nation's air, land, and water.

The nomination of Bill Reilly to be the next EPA Administrator reflects President Bush's commitment to environmental protection, as well.

My distinguished colleague Senator Warner has cited Bill Reilly's qualifications. I share his view. But I would like to emphasize Senator Warner's observation that one of Bill's greatest strengths for this job is his commitment to solving difficult environmental problems through consensus building.

The environmental problems facing our country are complex. People on both sides of every issue care deeply about their respective positions. There are no easy answers. Only through the combined efforts of government at all levels, together with industry, the environmental community and the public, can we reach solutions.

Bill Reilly knows how to harness the capabilities of these segments of society and how to achieve consensus on some very controversial issues. He proved it when he helped create Clean Sites, Inc., an organization made up of business and environmental leaders to clean up hazardous waste sites. And he demonstrated it again last year when he and the Conservation Foundation sponsored the National Wetlands Forum, which called for a national policy of no net loss of valuable wetlands resources.

These were bold ideas. They required vision to conceive and determination to succeed. But they succeeded.

Mr. Chairman, I believe that these ideas demonstrate Bill Reilly's qualifications to lead EPA into the 1990s, a time of environmental challenges global in scope.

And, like Senator Warner, I'm proud that the leadership of such a vital agency will be in the capable hands of a fellow Virginian.

Mr. Chairman, I am very pleased to join with others in recommending him to you today.

Senator **Burdick**. Senator Graham?

STATEMENT OF HON. BOB GRAHAM, U.S. SENATOR FROM THE STATE OF FLORIDA

Senator **Graham**. Thank you, Mr. Chairman.

It has been my good fortune to know Bill Reilly as both a friend and a colleague for over 15 years. Almost every major environmental initiative in the State of Florida during that period bears his imprint.

I first knew Bill through his work on behalf of enlightened land use policies. In the early 1970's he was a strong force for shaping our initial State land use laws in Florida. Later, while he was serving in his position as Executive Director of the Conservation Foundation, the foundation helped the citizens of Sanibel Island, which developed one of the earliest and most comprehensive development plans in our State, a plan which has served in many ways as a national model for similar fragile environment areas.

He was also instrumental in galvanizing a national coalition behind our Save the Everglades program, an initiative which has as its objective to cause the Everglades to look and function, by the end of the century, more like it did at the beginning of the century than they do today. He also was involved in another especially fragile area of our State, the Florida Keys, through his establishment of a habitat conservation plan for endangered species in North Key Largo.

Those are illustrative of the range of areas in which Bill Reilly has played a significant leadership role in our State of Florida. As Senator Warner and Senator Robb have said, he has brought to all of those a unique technical understanding of the issues involved and the ability to bring people together, focusing on those things that unite rather than those that divide. He is a consensus builder.

Mr. Chairman, our President has made an astute choice for the Administrator of the EPA in Bill Reilly. The responsibilities before this agency are formidable. The consequences of inaction or of the wrong choices are immense. I am confident that Bill Reilly will help us steer a wise course through the many competing demands on our environment.

I urge your support for his nomination. I and many others on both sides of the aisle look forward to his energetic leadership at EPA and look forward to working with him to improve our environment.

Senator **Burdick**. Thank you.

Senator Wilson?

STATEMENT OF HON. PETE WILSON, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator **Wilson**. Thank you very much, Mr. Chairman.

You are hearing quite a chorus of praise for Bill Reilly. There is a reason for that—it is deserved. I think that it is an inspired choice on the part of President Bush.

Like my colleague from Florida, I have known Mr. Reilly for many years, both as a professional colleague and also as a personal friend. In fact, it has been more than 16 years, and I can assure you that the President could not have made a better choice for what I regard as a critically important position, one that will require great leadership at this period as we approach the turn of the century and as we approach any number of environmental crises.

Bill is a proven leader. I think you know, Mr. Chairman, as do the members, that he has been the Director of the Conservation Foundation for the last 15 years or so. I am a former member of the board of directors of that foundation and I can attest to you personally that he did a superb job managing the foundation and assisting in its merger with the World Wildlife Fund in 1985.

He is not simply the first environmental group chief to have been selected for this position—he brings something very special to the job, as you have been told. I first knew Bill when I was a member and he was staff director of the Rockefeller Task Force which published the landmark study of land use in America entitled "The Use of Land."

As Senator Robb and others have said, Bill Reilly is truly exceptional in his ability to command the attention and the respect of a broad array of organizations and interests affected by environmental concerns. He is the kind of person that we need at EPA, one with this special ability. As noted in a recent National Journal article, even former Directors of EPA have taken advantage of his talents. They have sought his help in convening meetings on sensitive subjects.

What works so effectively for Bill Reilly is his approach to environmental policy. He is much more interested in making progress than in making headlines. He understands that confronting complex environmental problems does not inevitably require personal confrontation. He is candid, tough, and tough-minded. He does not shrink from combat, but he has learned that persuasion is far more productive than polarization. He has wisely sought to avoid politicizing what are already sensitive environmental issues, seeking instead to find solutions, as the American public wishes its government to do.

The American people want answers to the problems of air and water quality, toxic waste, global warming—they are not interested in either partisan claims of credit or conversely, in partisan finger pointing. They are not interested in the exhibitionist tactics of extremist groups. What they want are honest, effective, practical solutions to the complex problems that threaten their daily quality of life.

So the American people want the kind of honest and reasoned analysis of these problems, the careful weighing of the costs of taking curative action and of failing to take action, that offers their best hope of reaching the needed solutions.

Mr. Chairman, Bill Reilly not only understands this, but he has been America's leading proponent of environmental policy by consensus, not by confrontation. His entire career has been a success story of applying integrity, fairness, and careful analysis to produce consensus and progress on challenging environmental issues. I think it is notable that commentators on the environmental scene, those who have been particularly concerned with the involvement of local government, like Neil Pierce, have pointed out that more is needed than simply a sheriff. To use his phrase, "an inveterate thinker," with imagination is required to deal with the kind of complex problems that we are talking about. They involve more than simply the enforcement of the law.

As Governor Graham has indicated, California, like Florida, has reason to know that Bill Reilly deserves the reputation that he has earned at the Conservation Foundation. While he was there, the foundation's very thoughtful analysis of our State Coastal Zone Management Program helped to make that program work. The foundation has produced valuable practical analyses of lessons learned in California and across the Nation, learned from bitter controversies arising from conflicts between attempting to meet the requirements for new industry and jobs and the requirement for environmental protection. Indeed, the same statement might be made in Third World nations. These analyses have won deserved plaudits from State regulators, environmental leaders, and from the business community.

In short, Bill Reilly has developed the kind of successful record in tackling tough environmental problems that should give us confidence. His entire career has been devoted to finding the path of reason between protecting public health and the environment and the fostering of needed economic development. I can not think of a more challenging or more daunting task than that which confronts him at EPA, and I can not think of anyone who is better suited to meet that challenge, by character, by experience, and by a particular kind of intellectual energy that is going to be necessary to do the job properly.

I thank the committee for its courtesy and for the opportunity to address you on behalf of someone for whom I obviously feel enormous admiration. Thank you.

Senator **Burdick**. Thank you.

We will now proceed with the statements of the members. We will limit these to five minutes.

Senator Chafee?

OPENING STATEMENT OF HON. JOHN H. CHAFEE, U.S. SENATOR FROM THE STATE OF RHODE ISLAND

Senator **Chafee**. Thank you, Mr. Chairman.

First, I join in welcoming Bill Reilly here, and I want to thank you, Mr. Chairman, for scheduling this confirmation hearing in such expeditious fashion.

I also want to say to you, Mr. Reilly, that you have outdone any of the other nominees we have ever had before us with five Senators endorsing you, you've got enough for confirmation right there.

Your nomination has come at a pivotal time for our country, not only for the Nation's environment, but for the world's environment as well. We have a plethora of problems that are facing us.

What are some of them? Global warming, destruction of the ozone layer, the creation as well as the disposal of hazardous and solid wastes, the loss of our open spaces to poorly planned development, and the list goes on. I think we do have an exciting opportunity to begin solving these problems in a lasting way, and, in my judgment, you are the man that can do it.

What have we got to do? We have to reauthorize the Clean Air Act. We have had eight years of confrontation and stalemate on that. It has come out of this committee and has not gone anywhere on the Floor, so I would hope that as Administrator, you would put together a crash effort to draft clean air legislation with an acid rain component and send it up here as soon as possible.

Next, the greenhouse effect, another major item. Obviously that is not just a U.S. problem—it is a world problem. I am encouraged by the President's desire to address this challenge. He mentioned it during the campaign, and only yesterday our new Secretary of State, Mr. Baker, spoke to a group of representatives from foreign nations and called for immediate action on the climate change problem. I hope you share my concern that if we fail to take steps on this greenhouse effect during the next few years, the very future of our civilization will be threatened.

On the home front, we must protect our open spaces, and your creative expertise in land use issues is welcome and is needed. As these developmental pressures build up, our parks, our forests, our farmlands, and our communities are forced to face new challenges that they have not faced before.

I recognize that land acquisition and protection is not a prime responsibility of EPA, but certainly section 404 of the Wetlands Program is your responsibility. Lee Thomas did a good job, in my estimation, in elevating this, and your involvement with the EPA's Wetlands Forum gives you a good head start in this matter.

Waste reduction—that is a matter of growing concern. Traditionally, EPA has focused on the end of the pipe problems and not enough to reducing the pollutants at the source, so I hope you would give some attention to that.

Finally, a word about enforcement. We can sit around here with all the TV lights glaring and hold hearings and pass laws, but they are meaningless unless they are vigorously enforced. You might say that in this business, enforcement is where the rubber meets the road. It's the bottom line. I would ask that you review the procedures between EPA and the Justice Department and look for ways in which the process can lead to increased and swifter enforcement action.

The success or failure of your tenure as Administrator is going to be greatly affected by the team you put into place. In the agency now, the people you have are professionals who are committed to the environment, and I hope that when you get your leaders—sure you want good scientists, good lawyers, and good managers—but also I hope you would select them on their dedication to the protection of the environment. This is the only agency in the U.S. Government that is set up to protect the environment—that is what the name of the outfit is.

We welcome you to this committee. Senator Wilson mentioned it, and I will just stress it again: you are the first individual who has come from the environmental community to serve as EPA Administrator, so you have got the qualifications and it gives us renewed optimism as we face these big challenges ahead. We are glad you're here.

Senator BURDICK. Senator Moynihan?

OPENING STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, U.S. SENATOR FROM THE STATE OF NEW YORK

Senator MOYNIHAN. Mr. Chairman, I think we need to know more about the nominee's views on abortion——

[Laughter.]

Senator MOYNIHAN [continuing]. And I have some questions I will submit in writing.

Pending that, I want to welcome Mr. Reilly.

Just to continue a conversation we had when he called on our office, as he called on each of our offices, which is to say, sir, that I hope you will find the time to consider the role of science in the deliberations of the EPA, which I agree with the chairman, should be a department of our government. It is nothing if it is not a scientific agency, if its work does not proceed with methodology and standards of evidence, proof, hypothesis, and such like. This has been absent, and that has made many of the more important exercises or initiatives more vulnerable to the charge, "Well, how do you know?" Or, "What do you mean, and how do you know?"

On the one subject of great concern to this committee, the question of acid rain—I would say as a case in point, that the one bit of legislation that was passed out of this committee, the Acid Precipitation Act of 1980, establishing the National Acid Precipitation Assessment Program, of which you will be cochairman in short order—some $400 million in data collection has now gone into that program. I do not think there is any equivalent in our environmental experience. We have the numbers now.

I hope you will find that you have a data base on which to propose legislation in this Congress. We will pass it in this Congress, probably in this session. But I would hope it would have reference to what we have learned, so this committee can set out very carefully saying, "We are going to find out what kind of problem this is before we set out to solve it." That is not a bad rule.

May I also suggest, and I think you will be responsive to this, that we probably should go now into an international consortium of atmospheric assessments. With the technologies there are, we find many countries in Europe doing it already, and we have it now in place. The Soviets are interested, and that has some attractions that I hope you will pursue.

Finally, I would like to speak to engineering, too. We had great hopes in this committee when we began the Superfund, that in the process of dealing with toxic waste we would learn more about how to do. I do not think that we have. I am not aware of our having learned anything, and now we have this report from the Office of Technology Assessment that says what many of us, in private conversations, have feared that an awful lot of this money has been spent in questionable ways with uncertain results.

Again, a technological, scientific base is indispensible to success, which we wish you with the greatest enthusiasm.

Thank you.

Senator BURDICK. Senator Symms?

OPENING STATEMENT OF HON. STEVE SYMMS, U.S. SENATOR FROM THE STATE OF IDAHO

Senator SYMMS. Thank you very much, Mr. Chairman, and welcome, Mr. Reilly.

Having the correct leadership at EPA is of critical importance, not only to the Nation but certainly to my State. We have one of the most valuable, cleanest environments in the Nation, and we take the protection of that environment very seriously, so I appreciate you being here to tell us what your plans, hopes, and dreams are for leading this country in what I think will be a very challenging four-year period.

Before I go much further, Mr. Chairman, I would like to rectify a common misconception. Contrary to popular opinion—I want it said here on the record—I am an environmentalist.

Mr. Chairman, if you have any doubt about that, all you have to do is look at the vote ratings of almost every environmental group and you will find my name in bold print.

Every time I run for reelection, hundreds of thousands of dollars from environmental PACs pour into my State, to keep Idaho green.

So if that does not convince you, let me also state that I actually favor pure drinking water, fresh air, and a better environment, and I want Mr. Reilly to know that, too, because there are millions of environmentalists like me in this country. Mr. Reilly's organization, the Conservation Foundation, compiled a number of national opinion polls in 1982 relating to the perspectives that people have with respect to their environment. Those surveys revealed some very interesting numbers.

On many specific issues the poll showed a divided populace. For example, 29 percent of the population favored tighter Clean Air Act standards, while 51 percent favored no change at all. Seventeen percent favored lower standards; 45 percent favored oil and gas drilling in the wilderness areas, while the same percent opposed it.

However, on one question there was very little polarization, and I think it is important that we all consider this. That question asked whether it was possible to have both high environmental standards and a growing productive economy at the same time. Seventy-five percent of the Americans responding said, yes, so if an environmentalist is one who places a high value on the environment, then there are in this Nation, at least 120 million environmentalists, and I am happy to be one of those.

Now I agree that the polls are seven years old, but I would suggest to my colleagues that President Bush, in running for his recent election, spent quite a lot of time referring to the "L" word. He ran on one of the most free-market, pro-economic liberty platforms of any president, certainly in my lifetime. In his Inaugural Address he declared, "We know what works—freedom works. We know how to secure a more just and prosperous life for Man on earth through free markets and the exercise of free will unhampered by the state." Now that certainly does not sound like a man who favors big government solutions and a heavy regulatory hand of past environmental crusades. Yet, President Bush campaigned openly to the American people calling himself an environmentalist, and I believe that the American people believed him. They trust him and they do believe that he is an environmentalist. I certainly do.

Mr. Chairman, it is because the American people want—in fact they are demanding—a new environmentalism, that we face this challenge: a new environmentalism that can do both. We can have respect of institutions for private property, free markets, the hallmarks and foundations of the economic growth in our society, yet as President Bush said, a new breeze is blowing. The old ideas are new again, because they are not old, but timeless. So the question is: is it possible to promote environmental values without burdening the Nation's industries even more than they already are. In my view, Mr. Chairman, it is possible. In my opinion, Mr. Chairman, it is our only choice.

The greatest challenge to our environment in the field where the battle will be won is in the minds of our people. We will never have a national environmental police force large enough to prevent a person from dumping motor oil down a sewer or the unmonitored release and unseen spill of a misplaced barrel of hazardous waste with a nameless owner. These can only be prevented by a change in individual attitudes and values, and I do think that the polarization of the past did nothing to foster these values. In fact, it hampered them. You simply can not force an Idaho farmer or a Kansas farmer or any other farmer to value the environment when you pit it against his ability to put food on the table and a roof over his head. There has to be a cooperative spirit to make these things work.

That is why the American people are demanding a "can do both" environmentalism. It is not just a passing preference. I believe it is our only hope. To me, the question in this hearing is simple: when the Nation calls for a new thought and new ideas about how to protect our environment without burdening our industry, when American people assert their belief that private property, free markets, and individual enterprise are fully compatible with clean air and pure water, that is when this age of new environmentalism will come forward.

We desperately need a leader, Mr. Reilly, and I hope that you are the man who can stand before this committee and testify to us that you are the person who can lead us in that direction.

Thank you very much, Mr. Chairman.

Senator BURDICK. Senator Baucus?

OPENING STATEMENT OF HON. MAX BAUCUS, U.S. SENATOR FROM THE STATE OF MONTANA

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Reilly, as we begin to approach the last decade of this century, I think you are beginning to realize that certainly it is the view of this committee that you probably are in one of the most important positions in this country, and perhaps in some sense the world—deciding the degree to which this country in fact is going to protect the environment. As you well know, you face extraordinarily difficult problems as Administrator of the EPA. As you also know, the record of environmental protection in this country, and more specifically the record of the Environmental Protection Agency, has been very spotty.

There have been over six Administrators in the almost 20 year history of the EPA. The staff has grown from a very small staff up to about 15,000 employees. Your budget is about $5 billion, total. It is a critically important job.

You also know that not too many years ago your agency was ridiculed in comic strips, in the Doonesbury cartoon in particular. Whenever an agency is ridiculed, there is some indication that something is wrong. We all know what was wrong, and that is that the agency at that time was not protecting the environment. It was not living up to its obligations. It was not living up to its responsibilities as the Environmental Protection Agency.

It is, in part, for that reason that Time Magazine named the endangered Earth this year, 1989, as the Planet of the Year. It is the first time in the history of the magazine that they did not name a man or woman of the year, but rather the Planet of the Year, because of the environmental problems that have accumulated over the years, not only in our country but world-wide.

I do not have to enumerate them—you know them. Certainly acid rain is one. It is a very difficult tactical problem to solve, but it must be solved. Ozone depletion and the effects it has on Americans and on people world-wide is another. You know the problems of nonattainment, of ozone and carbon monoxide in this country. You know the problems of toxic hazardous wastes and of non-hazardous waste. We are awash in garbage in this country. The wandering garbage barge was just a symbol of the problem. It is deeper and more intractable than most people realize. You know all that, but these are problems that have to be solved.

Frankly, as I listened to the statements of introduction from various Senators from across the country—Florida, California—I was very impressed that a theme running through their statements was that you are a man who is a consensus builder, who tries to make things work. But there is a double edge to that sword, and the other side of that is that you may conciliate, mediate, compromise, and negotiate so much that you have diluted environmental protection. It is important to remember that we have the Environmental Protection Agency, not a consensus protection agency. And the laws, particularly the health standards, are to protect the health and safety of Americans, particularly the health of the American people.

A basic question that this committee will have—and it will be unanswered today for it is deeds, not words, that count—but a very basic question is going to be: will you conciliate, mediate, and negotiate away our environmental laws, or on the other hand, will you be a tough cop? Will you fine polluters, take away their licenses, send them to jail? Will you in fact stand up for the environment?

A related question is: what will you do when you disagree with a law? Will you neglect it as others in the past Administration have, outrageously in my view, openly saying that they disagree with the law so they will not enforce it. I cannot believe that an Executive Branch official would have the audacity or the ignorance to make a statement such as that. So it is my view that if you disagree with the law, you go ahead and enforce it nevertheless because it is the law. If you feel the law should be changed, you tell us because we are more than willing to try to change the laws if in your professional judgment the law should be changed.

The main point is that we have a big order ahead of us. If consensus is a better environmental protection, then I am all for consensus. But if consensus is diluting environmental protection, then I am not for consensus, and I think you will find this committee not for consensus.

We wish you well. Senator Chafee and the Chairman both said that environmental protection is bipartisan—it will only work if in fact it is bipartisan. I hope in that vein that not only the Executive Branch, but also the Congress, which is controlled by the other party, will work together very well to achieve a kind of consensus that in fact is environmental protection, not environmental dilution.

Thank you.

Senator BURDICK. Senator Lieberman?

OPENING STATEMENT OF HON. JOSEPH I. LIEBERMAN, U.S. SENATOR FROM THE STATE OF CONNECTICUT

Senator LIEBERMAN. Thank you, Mr. Chairman.

I must say that I had two reactions as I watched the five Senators introduce you, Mr. Reilly. One was that you should consider higher office.

I thought for a moment that you had more home States than President Bush has.

The second was a certain sense of envy because Connecticut was not represented there and I do want to point out for the record, with great pride, that you had the good judgment to marry a woman from Connecticut.

I am very pleased to welcome her and your children as well as yourself here this morning.

I should say to you, as others here on the committee have, that I was very encouraged by your appointment because of the fact that you come to this proceeding with a reputation as a conservationist.

I want to say to you that I come to the Senate and particularly to this committee with my experience as Attorney General of Connecticut fresh in my mind. That experience left me with a troubled view of EPA's recent record. As Attorney General I had to sue EPA more often than any other agency of the Federal Government, particulary on clean air issues where we felt that the laws, as Senator Baucus suggested, as they were clearly written, were simply not being enforced.

In my view, EPA must be on the front lines in the battle against pollution. It can not be a reluctant combatant, as it has been in recent years. That lack of will has also, I am afraid, led to a lack of resources, where the responsibilities given the agency have gone up many fold while its available budgetary resources have effectively remained constant.

Given that situation, which is a weakened agency, in my opinion caused by unaggressive leadership, I truly welcome your nomination and I hope that it signifies a new era for environmental protection in America. Our country needs you to be an environmental advocate, an environmental leader, someone who at the end of your term can point with pride to the cleaner world that you helped to create.

When someone in the Administration talks about opening America's last great wilderness area to oil drilling, we need you to argue forcefully against it. We need you to go to bat for your constituency which I believe is the world around us and all of us who want to protect the world for our children and their children.

When a budget analyst talks about cutting funds for sewage plant construction, we need an advocate who will say no, someone who recognizes that not only will that lead to greater costs in the future, but it will lead to dirtier water and closed beaches and abandonment—in fact, of President Bush's commitment to a cleaner Boston Harbor, and if I may say so, a cleaner Long Island Sound as well. And when special interest groups team up to urge this Congress and this government to go slow on a problem such as acid rain, we need someone who will have the guts to stand up to that array of interests and say that the clean-up must go forward, because it is right and because it is the law. More than ever before, I think that people in this country—and perhaps the crowd in this room testifies to that—are coming to understand that environmental protection is not just a matter of protecting natural resources, which it surely is. But it is also a matter of protecting people's health and safety.

In my opinion, when you become the Administrator of EPA, it may sound grandiose, but I would suggest that in a very real way, our natural environment, our world, is being put into your trust. I know that you will handle that trust with seriousness of conviction, and I simply want to suggest to you this morning that I and everyone else on this committee looks forward to working with you to make sure that, that responsibility is dispatched with seriousness, with dedication, and with a real sense of advocacy.

Thank you.

Senator **BURDICK**. Senator Reid?

OPENING STATEMENT OF HON. HARRY REID, U.S. SENATOR FROM THE STATE OF NEVADA

Senator **REID**. Thank you very much. We have heard, Mr. Chairman, some brilliant statements here this morning. They have all been good and enlightening, but the one that I paid particular attention to was that of Senator Baucus.

I think that it is imperative that you understand the mandate of this job which you are to take. The name speaks for itself: Environmental Protection Agency. Senator Baucus so well described what I believe, and I join in his remarks, in describing what your obligation and your mandate really is.

The one thing we have not talked about much this morning is something that I know you will hear a lot about, being part of the Administration. That is, "We would love to do all these things, and we know, Mr. Reilly, that your heart is in the right place, but we simply do not have the money to do that."

As has been said this morning, you must be an advocate for the world in which we live. We have a trillion-dollar budget—that is approximately how much money we are going to spend this year. The EPA is a very small part of that, which makes it more meaningful for you to fight for a few extra dollars here and there so that we are able to do some of the things that we know must be done. I for one, who also has the responsibility of serving on the Appropriations Committee, will do my share to see that you do have more money so that you can conduct your agency in the way that I believe that you want it conducted, not being drowned out by the prophets of doom saying, "We would do it, but we don't have enough money." We are arriving at a point in the history of this world where we can no longer use that as an excuse or we will have no world to live in.

Thank you, Mr. Chairman.

Senator **Burdick**. Senator Lautenberg.

OPENING STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator **Lautenberg**. Thank you, Mr. Chairman.

Mr. Reilly, welcome. I am pleased to join the chorus of admirers and welcomers. I think that the importance of your position is reflected by the gathering in this room and by the number of cameras that are here taking your picture. They are saying that this is a pretty important job, and I hope that the glow of pride on the faces of your family will continue when they see the burdens that you have been assigned by this appointment—that they won't see Dad getting tired and discouraged, but rather picking up the mantle and going with this.

Your experience and commitment to the environment bodes well for EPA in years ahead. That is important because the legacy you are going to inherit is a very tough one. I think that if we ask the question and supply the answer: is the environment better off today than it was eight years ago, it gives you a sense of where things are.

Is the environment better off? The beaches say no? You know my State very well, Bill. Sewage has stained our oceans; syringes and blood-filled vials invade our coasts. The EPA had the power to act to track medical waste, but it failed to do so. The Congress had to pass a law, override a Clean Water Act veto, and fight for funds to meet its mandate.

Is the environment better off? The countryside, scarred by 1,100 toxic waste sites that wound up on the national priorities list, says no. In eight years only 19 of those sites have been taken off the clean-up list. Deadlines have been missed and enforcement is weak. We were all distressed to see the report that was issued this week about the fact that contractors assigned to clean up those sites have not been sufficiently supervised. There is waste and there is inefficiency.

Is the environment better off? The budget says no. We have enacted tough laws in the last eight years, Superfund amendments, Right-to-Know, Radon protection, RCRA, the Clean Water Act, and yet the last Reagan budget has hardly moved beyond where we were in 1981.

Mr. Reilly, you inherit an environmental legacy of fouled beaches, seeping toxic wastes, acidified lakes, and unbreathable air. You inherit a legacy of neglect and mismanagement, and this is not so much a reflection on the person at the top. It depends on what kind of resource you have to work with, but we know the agency had a problem with morale, with turnover, with different standards being applied in different regions. I hope that President Bush's declaration that he is an environmentalist will in fact produce a kinder, gentler environment. You inherit a legacy with which you are going to have to do a lot of wrestling.

The GAO and OTA recently confirmed in separate reports that the Superfund program runs constantly late and wastes resources as it goes. You also inherit an atmosphere between the Congress and the Administration that has been polluted with ill will. We hope that the new breeze the President mentioned in his inaugural remarks will clear the air in our relationship.

Your nomination is a positive sign. I feel that there is a commitment to the environment that is perhaps at its apex now. The one thing that I hope—and the message ought to go out to everybody at this table and to those who supported you from the witness table—that if they are serious about cleaning up the environment and they want Bill Reilly to do the job that we all think he is capable of doing, then I hope they will be there when it comes to committing the resources to get the job done. To me, that is the most serious declaration of one's environmental bent.

Regardless of who we supported in the election, regardless of where we stand on other issues, we call on all of the environmentalists now. That is why I hope that four years from now we can honestly say that the environment is better off and the beautiful smiles that exist on your three family members there will continue. We hope they'll say, "Boy, Dad really hit a home run on this job."

Given the legacy you inherit, Mr. Reilly, it is quite a goal. It is one that I am committed to working with you on and one that we must not fail to achieve.

Senator BURDICK. Senator Jeffords?

OPENING STATEMENT OF HON. JAMES M. JEFFORDS, U.S. SENATOR FROM THE STATE OF VERMONT

Senator JEFFORDS. Thank you, Mr. Chairman. I will be brief. I had an opportunity to discuss my concerns at length with Mr. Reilly last week.

I would merely identify myself with the well articulated comments of my ranking member from Rhode Island. They are my concerns also. However I will, when my time for questioning comes, show some concern about the areas of your access to the President, what the role of CEQ is, and how you intend to be able to get the President to go along with your views and your ideas, as well as the problems that have been articulated by others with respect to enforcement, which is the key to making progress.

I appreciate this opportunity to be here today and look forward to the questioning period.

Thank you, Mr. Chairman.

Senator **Burdick**. Senator Simpson?

OPENING STATEMENT OF HON. ALAN K. SIMPSON, U.S. SENATOR FROM THE STATE OF WYOMING

Senator **Simpson**. I welcome the Reilly family here. It is a pleasure to see you all, and I very much enjoyed our visit the other day. I was very impressed with you.

There really has not been anything said, the majority of which any one of us believe. I have been on this committee for 10 years, and I remain on it because of absolute perversity.

It is the most extraordinary exercise of my political life, and also my legislative life. Twenty-four years I have been legislating, and I have never seen anything like this. But, we have done some remarkable things in this committee and the good work of Jennings Randolph, Bob Stafford, Senator Burdick, and Senator Chafee, now as ranking member, should not be lost.

We have reauthorized RCRA and we have strengthened the Safe Drinking Water Act. We reauthorized Superfund—I was one of the original cosponsors of the Superfund legislation. We reauthorized the Clean Water Act, but we never get anything done with the Clean Air Act because there is nobody on this committee from the States that are most deeply affected. There is nobody on this committee from Ohio, Illinois, Missouri, or Indiana, and we pass legislation out of here which is so unrealistic that it never goes anywhere. We pound our breasts and say we took care of clean air. We did not do it. We never were willing to recognize that Senator Robert Byrd was the majority leader and the bill was totally unrealistic to him and to his citizens, totally unrealistic to the people in the heartland that are most affected. That is the troublesome part of this, and now we have a regional imbalance on this committee, from the Northeast, which is rather startling.

I do not have any problem with acid rain. George Mitchell and I almost had a bill put together. The lobbyists were in shock, galloping around the city saying, "What are you two guys doing?"

We were just an ace away from getting it until the United Mine Workers weighed in and got back into the struggle of high sulphur versus low sulphur coal. That is the way it is in this place.

I would hope that this year we would do a Clean Air Act and deal with ozone nonattainment and all the rest of it in some kind of sensible way without just going on to figure out who can have the first seven-camera hearing. Those are really tedious—I can tell you.

If we can do that, we will make the grade. So the staff won't say, "There are eight cameras down there—rush down there and jump in and get wet."

Lee Thomas did a good job, and I would not want that to go unnoticed here, as to who did the work in the most extraordinary circumstances. Lee Thomas was splendid. Let's not go back and revisit all the old people who did all the dirty work. We know their names and their names come up in here, and what does that have to do with anything? Nothing. We engage in a scab-picking exercise here which is beyond belief. We go back and every time something goes wrong and they say, "How about Rita Lavelle?"

All I know is, that lady was battered when she left here, she is a human being. People forget that. She is still of the human tribe, and they had a high old time with her. She made a lot of mistakes, but I can tell you that I have sat here and passed amendments to the Clean Air Bill by a vote of 16 to nothing, and then watched this band of troubadours leap up, go to the phone, call the Casper Star-Tribune in Wyoming and say, "Simpson's got him a Clean Air Act." How do you get an act when you have an amendment passed by a vote of 16 to zip? I have been there. They will be hurtling out of their chairs in minutes saying, "He's doing it again; he's at it." I am not at it.

I was a conferee on Superfund. We got a good bill. I have been a conferee on Clean Water; I have worked with these gentlemen and I intend to work more, but I tell you that it is absolutely critical that we become realistic and not live under the fear of what happened before.

Let me tell you the failures are not the Reagan Administration. I asked the head of the Council on Environmental Quality in the Carter Administration, if agriculture was part of man's ecosystem, and she said no. How do you deal with that kind of mind set? Agriculture is the essence of man's ecosystem, whether you like it or not. We have to figure a way to create legislation on non-point source pollution so that you can irrigate your crops and fertilize them—that's what is called reality. Reality escapes us often here, and I am just going to tell you that there is not a single thing that's been said that we don't agree with in its basest form.

The issue of high-level nuclear waste—I am talking about the fact that there are 108 reactors in the United States. Some of them are reaching their decommission point. We can't even move the spent fuel. We can't even move the 43,000 metric tons of sheared fuel rods that sit under a few feet of demineralized water because everybody gets up and says, "Not here" or, "You're not moving that across my State." We have not seen anything yet until we start to cut up reactor cores on decommissioned reactors and try to put them somewhere while everybody prattles on and on about not here. These places are around some of the biggest population points in America, like Indian Point, Illinois.

I have been here and I've attended the hearings. Children—oh, the tragedy and the horror and the whole thing—but we never get anything done in that area. We just deal in raw emotion, and it is very tedious. I would hope and pray that under you and this new committee that we can put aside the hype and the hurrah and deal with reasonableness and sensibleness and for God's sake, get rid of this hype and hurrah where we just juice everybody up and wander out of this room and the staff says, "Well, I did you another great one there today—they loved you."

I am ready to go, but it is going to be awfully tough and you are going to have to have a degree of patience that just is beyond comprehension because you are going to get hit from all sides. Bill Ruckleshaus—who could have handled it better? And as he said, "They hammered me from every direction." God bless you, sir.

Senator BURDICK. Senator Humphrey?

OPENING STATEMENT OF HON. GORDON J. HUMPHREY, U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE

Senator **HUMPHREY**. Good morning and welcome, Mr. Reilly.

Mr. Chairman, in an effort to dispense with some of the froth, as our friend from Wyoming puts it, I will simply ask that my statement be included in the record.

I have already read through Mr. Reilly's excellent statement and he notes that we have gone a long way toward fouling our nest. Indeed that is true. It is getting hard to find a place to put your foot down without stepping into it in one sense or another.

We in New England feel like our nest is getting fouled by some neighbors because of the prevailing winds. I am referring of course to the acid rain problem, and we have heard an awful lot of talk about that but have seen virtually no action so far. I am anxious to question our witness on that subject and others, so therefore I will yield back the balance of my time.

[Senator Humphrey's statement follows:]

OPENING STATEMENT OF HON. GORDON J. HUMPHREY, U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE

Mr. Chairman, I join in welcoming Mr. Reilly to the committee.

We have reached an environmental watershed. We, who have benefited from the luxuries of an industrialized society, are now confronted with the results of our actions. The rain is killing our lakes and trees. Our landfills are overflowing with garbage and poisoning our ground water. Our wetlands are disappearing. Our air is harming the health of our children. In sum, our shortsighted policies of the past are catching up with us. The only nest we have have is becoming an increasingly unhealthy place to live.

I am particularly disappointed that Congress has been unable to overcome regional differences and enact legislation to control acid rain. Four years ago, New Hampshire enacted a law requiring a reduction in emissions of acid rain precursors in an attempt to slow the degradation of New England's natural resources. My State's law conditioned additional reductions on enactment of Federal requirements. It seems New Hampshire's trust was misplaced. For although this committee has considered acid rain control legislation for over seven years, we have failed to free a bill from the deadly grip of congressional gridlock. It is incumbent upon this Congress and this administration to take immediate action against acid rain. New Hampshire and other States continue to pay the terrible consequences.

I have met privately with Mr. Reilly and was impressed with his commitment to the enforcement of existing laws, as well as the aggressive pursuit of new, creative solutions to environmental programs.

I expressed to him my hope that this committee and the new administration can capitalize on the "New Breeze" the President has spoken of to navigate the sea of factionalism and special interests which has impeded enactment of legislation to reduce acid rain.

Similarly, we need to seek a fresh approach to the enormous problems associated with solid and hazardous wastes, the protection of ground water and other environmental issues.

William Reilly is long on experience when it comes to grappling with difficult environmental issues. And, I beleve that he has the ability to be a fine Administrator of the EPA. I look forward to hearing more from Mr. Reilly at today's hearing.

Thank you.

Senator **BURDICK**. Mr. Reilly, you are next.

STATEMENT OF WILLIAM K. REILLY, NOMINEE FOR ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

Mr. **REILLY**. Thank you, Mr. Chairman. Ordinarily I think I would ask your permission to include my statement in the record and summarize it very briefly. I am tempted to do that, but I won't yield to the temptation. With your permission I would like to read the entire statement.

Senator BURDICK. That is fine.

Mr. REILLY. Let me state, Mr. Chairman and distinguished members of this committee, that it is my very great honor to appear before you today as the nominee of President Bush for Administrator of the United States Environmental Protection Agency. When the President-elect asked me to serve in his Administration, he spoke of his very strong commitment to environmental quality, not only in the United States but also throughout the world.

I have spent my career seeking better ways for us to manage this country's abundant natural resources on which our economic well-being depends. I have sought better ways to protect the environment and public health from pollution. In the past few years, as President of World Wildlife Fund, I have worked internationally to protect wildlife and to help developing countries deal with monumentally serious problems of environmental degradation and destruction of their forests.

My experiences have left me with the very strong sense that the state of the Earth today offers ground both for hope and for despair, in equal measure. While nature is suffering under unprecedented assault all across the planet, public awareness and concern about the environment has probably never been higher, particularly in North America and Europe. Thus we are, I think, at an historic moment, characterized by urgency and also by opportunity. Rarely if ever before has there been such a need for leadership on the environment. The President sees the need to act now to make the environment a priority of domestic and international policy.

In accepting the President's invitation to serve, I told him that I wanted to help him be a great environmental President. If I am confirmed, I pledge to you and this committee, to the Congress, and to the American people, that I will do all within my power to fulfill my responsibilities to protect the environment and human health.

After meeting with many of the members of this committee, I know that you too, like the President, have very high expectations. You want steady, tangible environmental progress as the measure of success. The American people want the same thing. Clearly the environmental drama of last summer tapped deep-seated concerns held by many if not most Americans—highly emotional concerns about pollution run amok and about drastic changes in the ecosystem of this earth that sustains us all.

Last summer a record drought scorched much of our country, and after a decade awash in surplus crops, experts were speculating again about possible food shortages. Disturbing new evidence emerged of human-induced change in the global climate, the consequences of which we are only beginning to fathom. Beaches were fouled by medical wastes. An awesome, uncontrollable fire incinerated thousands of acres in Yellowstone Park, a remnant of wilderness many Americans had considered pristine and unthreatened. From Brazil came news of fires even more devastating, fires destroying millions of acres of Amazonian rainforest. To step from that remarkable, wondrous, biologically rich landscape on to a blackened wasteland is, I assure you, to glimpse a plausible vision of the Apocalypse.

After all this, when Time magazine named Earth the Planet of the Year in 1988, almost everyone expressed surprise—almost everyone but Comedian Jay Leno, who simply noted that all the judges came from Earth.

He had a point. So far as we know, they could have come from nowhere else but this bright blue orb, floating in space, whose image we saw for the very first time only 20 years ago.

In the two decades since then, it must be said that the United States has made great progress in dealing with environmental problems. We have established the most comprehensive regulatory framework for pollution in the world. Enormous investments have been made by the public, by industry, by government at all levels, and these investments have paid off handsomely. We have made progress in reducing many pollutants—sulphur dioxides, nitrogen oxides, particulates, and lead, to name a few—during a period in which our economy has grown very significantly. This is an American success story and we should be very proud of it. Public support for clean air and clean water has never been higher. Yet the domestic environmental agenda seems only to have lengthened and grown more complex with time. It turns out that we didn't know what was being put into the air and water. At least we didn't know all that was being put into them. New, more sensitive measurement techniques and more extensive monitoring have revealed toxic substances of great variety, distributed widely in air, water, land, and wildlife. In some places, "sanitary landfills" of a decade ago have become today's environmental hazards. There are substances of great variety, distributed widely in air, in lungs, in water, and in wildlife. In some places, sanitary landfills of a decade ago have become today's environmental hazards.

Air pollution indoors appears to be threatening some Americans more now than air pollution out-of-doors. Abandoned toxic waste dumps dot the landscape. Pollutants of all sorts have seeped into the vast unseen reserves of groundwater from which millions of Americans draw their drinking water.

If anything, the American public is becoming more sensitized, more aware of environmental problems and health risks. We have learned the hard way that it costs much more to clean up pollution than it does to prevent it in the first place.

In the words of "Project Blueprint," a report of a number of environmental organizations, one function of new leadership at EPA must be to help the American people achieve an even better understanding of the extent and seriousness of environmental issues.

Now, at the same time, a new international agenda is coming sharply into focus. Acid rain, ozone depletion, global warming, destruction of species-rich forests, ocean pollution from numerous sources—these daunting problems require an unprecedented degree of international cooperation, for we in the United States are hostage to the decisions made by other countries just as they are hostage to decisions made by us. Yet the community of nations is only beginning to construct the legal and the institutional framework for addressing these problems.

Historically, the United States has been a leader in the effort to promote international cooperation on the environment, and EPA will have to cross the borders more and more if we are to do an effective job. As the world enters a time of unprecedented environmental challenges and demands, the United States must be at the forefront sharing our research and our science, our technology and our experience, our successes and also our failures.

A great deal remains to be done, and, as President Bush has requested, international environmental issues will be a priority of mine if I am confirmed.

In approaching these challenges and others, I will endeavor to set and uphold the highest standards for conducting the business of the Environmental Protection Agency.

The first of these standards is respect for the rule of law. I want to stress before this committee that I understand and accept as my duty, first and foremost, to implement the environmental laws of this land as Congress has written them.

The Constitution and our environmental laws guarantee rights to all our citizens, including those whose activities are subject to regulation. So our enforcement efforts must respect due process and the rights of property. And enforcement must be inspired by a sense of vigor and urgency, for the aim of the enterprise is no less than the protection of human health, of life, and of the natural order that sustains civilization. So I pledge to take aggressive and timely enforcement action whenever it is warranted to safeguard public health or environmental quality.

I do look forward to discussions with members of this and other committees in Congress about how we may be able to strengthen our pollution control efforts, based on advances in scientific knowledge and years of experience with pollution control and regulation. How can we better exploit the seemingly great potential of waste reduction and recycling? How can we harness market forces and the inventive genius of American industry to the task of abating pollution?

How can we best protect our wetlands and groundwater and our other natural resources on which we depend? As you know, The Conservation Foundation explored such questions in considerable detail during my tenure, and I look forward to exploring opportunities to find possible answers with you.

My decisions as Administrator and those of others in the agency will be guided by the most rigorous scientific information we can bring to bear.

Finally, as Mr. Ruckelshaus told this committee in 1983, ending the greatest crisis in EPA's history, what EPA does will be done in a fishbowl. The American public demands, and deserves, full access to EPA's decisionmaking. If confirmed, I expect to engage the public in every aspect of the agency's work.

If confirmed, I will inherit a dedicated, knowledgeable, thoroughly professional staff at EPA. I hold them in very high regard and have confidence that, with the support and encouragement of the Administrator and the Congress, they can help this Nation and the world to achieve an environment that is healthy and natural systems that remain productive.

During the campaign, President Bush observed that "environmental action has too often been marked by bitter and often nonproductive confrontation between competing interests." I harbor no illusion that this competition will cease. Yet I think we no longer have the time or the luxury of allowing the bitterness, the polarization, the wasted resources, and the other excesses of that competition to stay our progress.

I firmly believe that we must work to usher in a new era in the history of environmental policy—an era marked more by reconciliation of interests, by imaginative solutions arrived at through cooperation and consensus, by the resolve to listen and to work out our differences. After all, it is in everyone's interest to protect the only planet we share, at a time when evidence is mounting of the Earth's vulnerability to destabilization.

I am a conservationist. It is my life's work. Throughout, it has been my practice to consciously seek the advice and opinions of a wide spectrum of affected parties on virtually every issue of consequence I have faced.

I have spent my entire career advocating environmental protection and economic growth, in the conviction that growth provides the wherewithal to pursue environmental protection, to apply the conservation wisdom that we have acquired thus far, and to expand our knowledge. I do not see a healthy environment and economic development as fundamentally at odds. The economic growth we want is the kind that does not shorten our breath or our lives. It is the kind that can be sustained.

To be sure, decisions that I will make if confirmed as EPA Administrator will involve tradeoffs, often very serious tradeoffs. But the American people are asking their leaders to do more than wrangle about the environment. They are insisting, I believe, that we find the common ground of sustainable and environmentally sound economic growth. I am convinced we can find it, especially if our search extends beyond the halls of EPA and the Federal Government to States and to the private sector, both profit and nonprofit.

So many of the best ideas, for the environment as for so much else, are out in the country, quietly being tested and tried, and we need to find these ideas. Our regional offices are well equipped to listen and question, cooperate and consult, and then move forward ideas that have been field tested.

I will take these initiatives very seriously, as I will the need for vigorous and aggressive enforcement—enforcement of environmental laws and the new worldwide environmental mission in which EPA must play a leading part.

In sum, I believe that in the years ahead the Nation's environmental policies should reflect five principal priorities:

One, respect for science.

Two, pollution prevention through waste minimization and recycling.

Three, a significantly higher degree of international activity and cooperation with other countries in the global village. Passing the pollution next door makes no sense.

Four, aggressive enforcement. It is the key to an effective EPA and to a clean environment.

Five, wide consultation and cooperation with Congress, the States and localities, with business, professional, and environmental groups in the search for the best ideas for more effective policies and programs.

Let me conclude by reaffirming an observation dating from my earliest days in Washington. Bipartisan cooperation and cooperation between the Congress and the Executive Branch—these are, I think, the fundamental prerequisites of sound and enduring environmental policy. When I last served in government, in the early 1970's, the environment enjoyed a very high degree of bipartisan cooperation, and we got things done.

Mr. Chairman, I look forward to the chance to begin building a productive relationship with Congress by working for the reauthorization of the Clean Air Act. We expect to offer a comprehensive proposal for congressional consideration just as soon as possible.

I would hope that, among other things, the law that eventually emerges will result in the substantial reduction of acid rain by the end of this century, a goal to which President Bush is committed.

If we have any hope of entering the next century with a safe environment, abundant natural resources, the sublime experience of wilderness for any who may want it, and healthy, growing economy, much, much more will have to be done. I look forward to the work—I look forward to most of it, I think, anyway—with great enthusiasm, having decided long ago that nothing could be more important, nothing could be more rewarding, than protecting the Earth and the magnificent life that is on it.

Mr. Chairman, I will do my best to answer any questions that you and others of the committee may have for me.

Thank you, sir.

Senator BURDICK. Thank you.

At this point we begin the questioning period, which will be limited to five minutes for each Senator in the first round.

Before we start on questions, let me ask the Senator from Minnesota, who just entered the room, if he has any comments.

Senator Durenberger.

Senator DURENBERGER. Mr. Chairman, with deference to my colleagues who were here listening to each other's statements while I was having a press conference on Medicare, I will defer my statement to my question time and make my comments at that time.

Senator BURDICK. In that case we will begin the questioning with myself.

Do you know of any matters which you may or may not have thus far disclosed which might place you in any conflict of interest if you are confirmed in this position?

Mr. REILLY. No, sir, I do not.

Senator BURDICK. As you know, the effect of the Clean Air Act on utility powerplant emissions has been uneven at best. Today more than 70 percent of electrical generation capacity in North Dakota is scrubbed. Other States, especially in the Midwest, could not make this claim.

If we abandon the principle of the polluter pays regardless under this program, do you believe that recognition should be given to those utilities who have already made significant air pollution control investments?

Mr. REILLY. This question obviously goes to the heart of the resolution of the acid rain issue generally, Mr. Chairman. It is one that, during the short time since the President indicated his intention to nominate me, I have begun to get into. We, in fact, have a group that is working on a variety of alternatives and looking at a good deal of the history of this issue, long-considered by the Congress.

I hope, before too long, that all of that will allow the Administration to bring forward a bill that will respond precisely to some of those questions. But I am not prepared to do so right now.

Senator **Burdick**. I hope that you will look at this question very carefully because many of the western States have spent millions of dollars in cleanup, where it has not been repeated in other areas.

Mr. **Reilly**. Well, acid rain, from our point of view, is first out of the box. It is getting our very heavy and sustained attention right now.

Senator **Burdick**. As you may expect, many committee members, including myself, are concerned about several policies articulated in the latest Reagan budget for EPA. While you are not to be held accountable for those proposals, can you give us some idea of when and in what form we will receive an amended EPA budget for the coming fiscal year?

Mr. **Reilly**. I expect to be a strong advocate for the Environmental Protection Agency and its budget, and I expect to look closely at the resources that we have to carry out the statutory responsibilities that we exercise. I have not been able to do that in any detail yet, but I expect there will be some initiatives in the reasonably near future from the administration that will clarify some of the priorities and put funding behind some of the major initiatives.

Senator **Burdick**. You cannot give us a calendar date?

Mr. **Reilly**. I think the President, in the State of the Union address, which is scheduled for February 9, may give some signals on that, Mr. Chairman.

Senator **Burdick**. Thank you.

Senator Chafee?

Senator **Chafee**. Thank you, Mr. Chairman.

Mr. Reilly, are you prepared, at the request of any duly constituted committee of the Congress, to appear in front of it as a witness?

Mr. **Reilly**. Yes, sir, I am.

Senator **Chafee**. I would like to return to a statement that Senator Baucus made that I thought was a wise one, and the thrust of his statement was that there are going to be times when reconciliation efforts to bring parties together are not going to succeed because the interests are going to be diametrically opposed.

For example, when we are dealing with CFCs, you have a situation where people are going to lose their jobs or it is going to cost corporations money. I will never forget, we had witnesses in here from the insulation field. One manufacturer of refrigerated trucks said how important this foam material was to him in insulating his trucks, and freon was used, and that has CFCs in it.

So I just want to say that there are going to come times when all the best efforts to bring parties together, for each to see the interests of the globe as opposed to their interests first, are not going to succeed. And now let me just give you a specific.

The so-called CAFE standards, which are the corporate average fuel economy standards for the fleets of automobile manufacturers, for the 1990 fleets are going to come before the Department of Transportation very quickly, within several weeks. My question to you: Will you, representing EPA, argue against the relaxation of these standards?

Here you go right to the heart of the matter. Secretary Baker yesterday spoke to the intergovernmental panel, and I believe you were present, on the climate change. The Secretary was very encouraging, and I know the President is concerned about this. Here we have an instance of something that indeed affects the global climate—the fleet averages.

Mr. REILLY. Senator, I think there are very few things that we could do that could achieve more benefits than reducing fossil fuel use and reducing energy use—that is, improving the efficiency of automobile use—whether from the point of view of pollution control, energy conservation, or reducing fossil fuel buildup and dealing with the greenhouse gas problem.

The short answer to that question is, I have always believed that those standards represent a progressive, an intelligent, a reasonable way to go to achieve some of those objectives. I believe it now, and I will be an advocate for maintaining them.

Senator CHAFEE. Well, I am encouraged by that because this is the first item right out of the box, and I look forward to your vigorously representing one side. The automobile manufacturers are going to, obviously, seek the relaxation of the standards.

At the request of this committee, EPA has been doing two important studies, one of them on the effects of the climate change—and that has come in—and one on the options we have to reduce the greenhouse gases.

That second report, the options to reduce the greenhouse gases, we have not received. It is a bigger job than the first one. It is almost a year late. I would appreciate it if you could check on that and see if we can get that report as soon as possible. Can you do that?

Mr. REILLY. I would be glad to do that, yes, sir.

Senator CHAFEE. I am sorry that Senator Lautenberg is not here, but I just want to say a few words in defense of Lee Thomas, who I think, intentionally or not, came under some fire in the Senator's remarks. I want to give a lot of praise to Lee Thomas, your predecessor in the job he had, and particularly in the Montreal Protocol dealing with the destruction of the ozone layer.

He took the first steps there. He gave leadership to it. Certainly UNEF did; the United Nations environmental organization had a lot to do it. But Lee Thomas was right there and took a lead.

Some of that has been accomplished. I think we have got to go further. I think as we look back on it, that was a good first step. I am glad we achieved it, but it is not going to do the trick, and I think we have got to get on to rapid phaseout of the CFCs and halons and other ozone-depleting chemicals.

Do you agree with that? That is the first question. And, secondly, are you prepared to have the United States propose a complete phaseout at the April meeting in Helsinki?

Mr. REILLY. I think, first of all, that your point about the Montreal Protocol is absolutely right. I think it is a milestone and may prove over time to be the model for the way we address similar global issues. It is enormously encouraging that the world community was able to come together around that protocol, as they have done, and that we have seen so many since ratify it. The first job, it has seemed to me, is to get the rest of the world to ratify that protocol; and now, obviously, the second task is to ask whether we have gone far enough.

It is very impressive to me that two of the major manufacturers of CFCs in this country have indicated their intention to phase them out, and I think that the United States, at least, is going to be in a position of being able to advocate with other countries that we accelerate the schedule for CFC phaseouts well ahead of the 50 percent that is contemplated in the treaty by 1998.

Senator CHAFEE. But you are not willing to go as far as a complete phaseout?

Mr. REILLY. I think that it would be a matter of a very few percentage points that might, as I understand it, need to be maintained for some short period of time slightly beyond the end of the century. That is a detail, though, Senator. I think you can expect that the United States will be very concerned to go beyond the Montreal Protocol and that decisions will be made on that very soon and that you will like them.

Senator CHAFEE. I notice my time is up, but you are going to be a key player in this.

Mr. REILLY. Yes.

Senator CHAFEE. I certainly hope you will be and will have your voice heard, and I see this as an economic advantage, actually, for the United States, or it could be, to get going on this, because eventually it is going to happen.

Mr. REILLY. I expect that the United States will have a leading position on this matter.

Senator CHAFEE. Thank you.

Thank you, Mr. Chairman.

Senator BURDICK. Senator Lieberman?

Senator LIEBERMAN. Thank you, Mr. Chairman.

Mr. Reilly, my first question, in a sense, you have answered implicitly, but I do, for the sake of history, want to get it on the record.

There have been times in our discussion of acid rain when we have treated it as if it were the Loch Ness monster, some wondering whether it was really there. Do you believe that we have an acid rain problem in America?

Mr. REILLY. I believe the acid rain problem is a very serious problem.

Senator LIEBERMAN. May I say that I was heartened to hear your opening statement that the Bush administration plans to come forward with a clean air bill of its own, which I gather is a first; that is, it had not happened in recent years that there was an administration bill. I appreciate that.

I think one of the concerns of people who follow this bill is that that submission come in a relatively timely fashion so that the process can move forward. Do you have a goal, a deadline, a date by which you hope to have the administration position before us?

Mr. REILLY. I am very conscious, Senator, that this country has waited 12 long years to make improvements in the Clean Air Act, and we will do everything in our power to get a bill up here just as soon as we practically can. I hesitate to give any specific timetable; I have not been in this situation before.

Senator LIEBERMAN. I understand.

Mr. REILLY. But I would hope that we will do that soon, and given the number of people we have working on it right now, it is ahead of everything else, and I think it will not be too long.

Senator LIEBERMAN. I appreciate that. The concern is that this is the moment, and we ought to seize the moment, and your coming to this position and the President's interest apparently in a clean air bill encourages us to believe that something may well come out this Congress on clean air.

Mr. Reilly, in 1983, a National Academy of Sciences study, as you probably know, concluded that a 50 percent reduction in acid rain pollutants would be adequate. We have had several studies since then. We know more now than we did then about acid rain. What is your view on how much of a reduction is needed to bring us to a tolerable level?

Mr. REILLY. The President said in his campaign that he believes the time for study alone on this problem is over, and it is time to act, and he indicated that he favors millions of tons of reduction by the end of the century.

I cannot at this time go further than that, but I would simply like to say that we expect to send up a bill on this issue that is credible and realistic, and I think that if we do that—and I have had conversations with any number of you on this issue—maybe we have the opportunity this year to pass something. That is our interest.

Senator LIEBERMAN. I appreciate that.

This matter of clean air, and certainly the acid rain component of it, is a vivid field on which the dialogue that we have had here about your role will be tested. Clearly, Washington is a place that only produces when there are people who are concerned about consensus building, but on the other hand, if the consensus that is arrived at is as good as we want it to be, there have to be some people who push it as far as it can go, who are in that sense environmental advocates, and I do not have to depict to you in any detail the maze of special and regional interests that are involved here.

Can we count on you to be primarily an environmental advocate when it comes to dealing with acid rain?

Mr. REILLY. Yes, sir, you can. I think there is a misperception sometimes of those who engage in consensus building and negotiation. There is an anxiety that that somehow is soft. I think different people, different groups, at various times have different roles, and one role of The Conservation Foundation has been to try to foster public policy development when there was a stalemate, when there was an urgent need to bring diverse interests together and we thought there was an opportunity to do that.

It does strike me as funny that so many of the consensus-building efforts we have had that have turned out to be very controversial do not cause people to recognize that sometimes it is a dangerous business to try to negotiate solutions to problems or to play the consensus builder or, as someone referred to me, to be the "great includer."

Sometimes I would like to include interests and people "out" of some of the things that we have done. After we have completed reports, particularly the creation of Clean Sites some 4 or 5 years ago, I can recall that there were a lot of people who wanted to include us "out" on the hazardous waste debate.

You can, however, count on my being an advocate. I think, in my efforts to encourage consensus building and dispute resolution and the resolution of environmental problems involving a variety of different interests, I have always been an advocate for the environment. I have never made any bones about that. I have run The Conservation Foundation; I have been a conservationist. That has been the principle I have begun with, and that is the one I have upheld, I think.

Senator **Lieberman**. Thank you.

I think, in all these matters, it is a question of where you draw the line, where you settle. Obviously, if everyone holds to a rigid position, nothing is going to happen, but we have to count on you to put the tilt in favor of environmental protection.

Continuing the last question on the Clean Air Act and acid rain, I understand that President Bush may be traveling to Ottawa in February to meet with Prime Minister Mulroney, and I presume, as has been the case in the past meetings of the two leaders of our countries, that acid rain will be a major subject.

I wonder whether you know at this point whether you will be traveling with the President to that meeting.

Mr. **Reilly**. That issue has been raised, but I do not know the answer to that yet. It has not been decided.

Senator **Lieberman**. May I say that I certainly, for one—and, I am sure, the members of the committee—hope that you will be traveling with him so that that advocate perspective will be reflected.

May I also share with you the concern that some in the environmental community have that an agreement may come out of the meetings in Ottawa that would call for a treaty agreement between Canada and the United States concerning the subject of acid rain, which might get in the way of Clean Air Act amendments before this Congress in the most specific procedural sense that, of course, a treaty would require 60 votes, two-thirds, and the Clean Air Act would require a majority.

Mr. **Reilly**. I understand that, Senator. Let me just say that I do not think it is very likely that anything specific in the way of an agreement, really, of any sort is likely at that meeting in Ottawa. It is still too early to expect that.

Senator **Lieberman**. All right.

I see my time is up. Perhaps I should clarify for the record, since I am new here, that I understand that two-thirds of the Senate is 67 members as opposed to 60.

Thank you, Mr. Reilly.

Mr. **Reilly**. We would not want to raise the hurdle too high on acid rain, would we?

Senator **Burdick**. Senator Symms?

Senator **Symms**. Thank you very much, Mr. Chairman.

Mr. Reilly, thank you for your patience here this morning.

I wanted to change the subject a little bit from the Clean Air Act and give you an opportunity to clarify some of your views with respect to private property, land use, and that issue.

In the report that you did several years ago, I believe, "The Use of Land," you cite a chronology of the legal thought on private property that is somewhat similar to the chronology found in this document, "The Taking Issue," by Bosselman, Callies, and Banta. Some of those passages are pretty similar and have a similar thought process. Is there a connection between the two, or would you want to comment on that?

Mr. REILLY. Yes. Fred Bosselman was a consultant to the Council on Environmental Quality who, in that capacity, prepared "The Taking Issue," the report that you have. He also worked as a consultant to the task force of President Nixon's Citizens' Advisory Committee on Environmental Quality and helped with the chapter on the taking issue.

I think Bosselman's particular qualification for that role was that he was the associate reporter for the Model Land Development Code of the American Law Institute, which recommended legislation that has become the basis for our Coastal Zone Management Act and for Florida's Land and Water Management Act and for the National Land Use Policy Act that President Nixon proposed in 1971.

Senator SYMMS. Thank you.

The full title of this book was "The Taking Issue: A Study of the Constitutional Limits of Governmental Authority to Regulate the Use of Privately Owned Land Without Paying Compensation to Owners." That was actually the full title, and the authors make the case, which also appears in "The Use of Land," that finds fault with the current constitutional principle of private property rights as, and I quote, "a bundle of sticks including various rights with respect to the use of land."

The argument is made that Justice Holmes wrongly applied this principle in the Pennsylvania Coal case and that a balancing of public benefits against any taking of such property rights is not justified. Is that your current view?

Mr. REILLY. The application of the Constitution to the regulation of private property is something that has developed and evolved over many years in the course of our history. We can look back to a time when it would have been permissible to construct a tannery next to somebody's house, and there was not anything that anyone could have done to prevent that. It would have been considered a perfectly reasonable use of someone's private property.

That obviously is no longer the law. The United States Supreme Court has sustained zoning, which, after all, is designed to regulate land uses without paying somebody simply because they cannot build a skyscraper, even though they might like to.

In more recent years, and after that book was written, the United States Supreme Court upheld the decision of the City of New York to require the maintenance, the protection, of the exterior of Grand Central Station, in a case where the owner of that building wished to tear it down and put up a much more substantial structure that would have been more remunerative, more profitable. That was considered a legitimate exercise of the police power, and no compensation had to be paid for that.

I think that that is a progressive evolution of the law. The authors of the book, "The Taking Issue," and the members of the task force that I served as executive director, including Pete Wilson and including the executive vice president of the Bank of America and the developer, Jim Rouse, and others, considered that it was important both to clarify the law and to recognize that important resources necessary to the health and protection of welfare had to be acknowledged, and this should be done in a more systematic, clear way to assist county attorneys and to assist local decisionmakers around the country as they make the decisions—and nobody else is going to make them; they are never going to be made by any but local governments in our system—to plan and manage their land and better protect the environment.

Senator SYMMS. Thank you.

I think, Mr. Chairman, he has answered basically my third question. I will state it. Do you believe, as cited from "The Use of Land," that our contemporary constitutional principles on taking of private property date from a time when attitudes toward land, natural processes, and planning were different than they are today and were formulated at a time when the use of land was not ordinarily a concern to society? I feel like you answered that, but if you want to comment on it, please do.

Mr. REILLY. I think the United States has a history of a very abundant land resource, and it has perhaps come to be regarded in our culture as more abundant than it is. In recent years, as we have seen pollution of groundwater in 30-some States and wholesale losses of wetlands, destruction of other resources that matter a great deal; we have had to recognize that we simply must, like most societies that are growing, make choices about how we are going to organize our land, where we are going to put our infrastructure. Those choices will have consequences for private property.

Our Constitution, and the theory that underlies our approach to property, has evolved to accommodate that, as I think it must.

Senator SYMMS. Do you think that has evolved through judicial activism, primarily?

Mr. REILLY. It has evolved, as best I can interpret, as a consequence of property owners wanting to do something in a specific place and localities deciding that we do not want a brick kiln in a residential neighborhood, for example, which is one major Supreme Court case. Or a gravel quarry in this area, where there are a lot of children, is a dangerous use of land, and therefore it is not going to be permitted, and there is no compensation payable to the person who would like to do it.

It has come as a result of the ebb and flow of conflicting interests but always as a consequence of local decisions and local regulations.

Senator SYMMS. But it has avoided the necessity, though, for advocating of a constitutional amendment to take another look at how we view private property?

Mr. REILLY. Absolutely. There is no need for that.

Senator **Symms**. I guess my time is up, but, Mr. Chairman, I have four more questions. I would ask unanimous consent to submit them to Mr. Reilly, to be answered for the record, so he would have the opportunity to answer these questions.

Senator **Burdick**. Without objection, it is so ordered. (See p. 253.)

Senator **Symms**. I thank you very much for being a very able witness. I wish you good luck.

Senator **Burdick**. Senator Mitchell?

Senator **Mitchell**. Thank you very much, Mr. Chairman, and I thank Senator Baucus and my colleagues for permitting me to go out of order.

Mr. Reilly, I commend the President for appointing you. I commend you for accepting the appointment, and we all look forward very much to working with you in what is clearly one of the most important positions in government today. You have an opportunity to do a great deal of good for people throughout this country and, indeed, throughout the world.

I hope you will convey to the President that it will be very much in his interest to encourage action on protection of the environment. There are very few things that can be done to produce a kinder, gentler America that do not adversely impact on the budget. There are many areas in environmental protection in which that is possible, the Clean Air Act being one, and I hope you will encourage him in that regard.

One of the frustrations that I, and I believe other members of the committee, have had in recent years has been the refusal of the Environmental Protection Agency to act on the authority it now has under law. We have repeatedly confronted a catch 22 situation, dramatically illustrated last year when your predecessor testified in opposition to a provision in the then-pending Clean Air Act to set up a regional effort to deal with air pollution.

His opposition was based on the fact that, under section 126 of the law, EPA already has authority to do that, and therefore the additional legislation was unnecessary and redundant. Unfortunately, the catch 22 is that EPA has refused to use that authority, and indeed, as you know, has been sued many times by States trying to invoke its use.

So here we are in a situation where we are trying to get something done, and EPA says don't write that law because you don't need to; we already have the authority under existing law. However, they refuse to invoke the authority under existing law. I refer specifically to section 126 and section 115 of the Clean Air Act.

EPA, until now, has opposed all efforts including lawsuits brought by a number of States to require them to make the finding necessary to trigger the provisions of the act, basically on the grounds that we did not know enough about whether or not acid rain is a problem.

You have just said, in response to Senator Lieberman's question, that you agree it is a problem, and so my question is, are you prepared to reverse the EPA's position with respect to invocation of those provisions of the act which give you authority to do something about it?

Mr. **Reilly**. Let me say at the outset, I am not specifically familiar with the statutory authority that EPA has or how, in fact, the agency has proposed to deal with that in the past. But I would only comment on that, as you know better than anyone, Senator, the acid rain issue involves enormously complicated conflicts, tradeoffs, regional interests that are very significantly diverse across the country, and the politics of that reflect how very difficult it has been for the United States to come to a decision on it.

It may be a little bit unrealistic to expect the Environmental Protection Agency to resolve at a stroke, under its regulatory authority, what the Congress has labored over so long here to try to craft and develop a consensus on. I think the approach and preference of the administration to now become a very significant player on clean air, to submit legislation—to submit legislation on acid rain that we expect to be plausible, credible, realistic and that might help us move this forward—is the way to go at this time. I hope we can all cooperate to give the biggest push we can to that and see if perhaps this is not the year when, finally, we break that logjam.

Senator MITCHELL. Well, let me make clear that I do not regard, and I do not believe the petitioning States regard, EPA action under the provisions of the act to which I referred as resolving the problem at a stroke. It would, in fact, be a very modest step, but it would be a step in the right direction. There would be much more required than that.

Secondly, I am heartened both by the President's prior statements regarding acid rain and your statement now. I would ask, in the spirit of cooperation that now exists, that you consult with us in connection with the pending legislation, as we have tried to do with the EPA, and that we try to work together to get a proper resolution of the problem. I would like that very much.

I introduced the first bill over seven years ago, and I want, I think, more than anybody, including you, to have the problem resolved because I do not want to spend the next seven years at it. So I welcome very much your comments and encourage you to consult with the members of this committee and others in the Congress and outside the Congress before you introduce your legislation.

Mr. REILLY. Let me say, Senator, publicly what I have said to many of you privately. I fully intend to do that. That is the way we hope to proceed. Given the very long history, your significant involvement and contribution to this issue and that of many other members of the committee, we will look forward to working very closely with you and with the staff here to make sure that what we do is going to be, as I said, credible and realistic.

Senator MITCHELL. Thank you.

Well, Mr. Chairman, I see my time is up. I have a statement that I would like to submit for the record at the appropriate point, and additional questions in writing that I would like to submit to Mr. Reilly.

Senator BURDICK. They are received now, without objection.

[Senator Mitchell's statement follows. Responses to additional questions may be found at p. 236.]

OPENING STATEMENT OF HON. GEORGE J. MITCHELL, U.S. SENATOR FROM THE STATE OF MAINE

Good morning, Mr. Chairman, ladies and gentlemen.

President Bush has called for a fresh start in dealing with many of our pressing national issues. A fresh start is especially needed in the area of environmental policy.

The President made a commitment during the campaign to "appoint the finest, most qualified individuals in the land to serve in my Environmental Protection Agency." He has taken an important first step in fulfilling that pledge with the nomination of Bill Reilly to be Administrator of the EPA.

As a candidate for President, Mr. Bush outlined an ambitious agenda to improve environmental protection, which Mr. Reilly will be expected to carry out if he is confirmed as Administrator. Mr. Bush has said, for instance, that:

"The time for action, on clean air and for acid rain, is now." [Oct. 14, 1988, University of California, San Diego]

"No net loss of wetlands" should be out national goal. [August 31, 1988, Lake Erie Metropark, Michigan]

Mr. Reilly will face not only the challenges of carrying out these policies, but also carrying out the commitments that have been made by the President with respect to toxic waste, ground water protection, and protection of our coastal waters.

In implementing this agenda, Mr. Bush has stated that Mr. Reilly and his other appointees at the EPA, "will have my support. They will have my ear. They will have my confidence."

If confirmed, Mr. Reilly also will have my support. We will need to work together to reduce the pollution from which we all suffer. In that regard, I want to take this opportunity to urge that the Administration make a greater effort in several areas.

First, the Agency and the Administration must reverse the basic policy of opposing every major environmental law developed by Congress. Over the past eight years, EPA has opposed the Clean Air Act, Superfund, RCRA, the Safe Drinking Water Act and the Clean Water Act. The President vetoed the Clean Water Act amendments twice and opposed acid rain control legislation at every opportunity. I sincerely hope that we can establish a more cooperative and constructive relationship in the future.

Second, the next EPA Administrator must reverse the dramatic underfunding of environmental programs over the past decade. The EPA 1989 budget for core operating programs has the purchasing power that it did in 1975 while responsibilities have increased.

The bottom line is that the Agency is not effectively implementing many of its core programs and has inconsistently implemented new programs passed by Congres in the past decade.

The next Administrator must give higher priority to convincing President Bush, OMB, and other Administration officials of the need to fully fund environmental programs. He must make this case to Congress in a compelling way. And, he must work to identify and develop new sources of funding.

Finally, the next Administrator must work with Congress to rebuild the Agency's capacity for research and development, to more effectively identify and address emerging environmental and human health problems, and to build an institutional foundation for addressing environmental problems on a global scale.

Even the preliminary evidence we have concerning global environmental problems, such as climate change, ocean pollution, and declines in biological diversity and endangered species, tells us we have just scratched the surface of these problems. Future generations may well judge our efforts largely on whether we were alert to the emergence of global pollution problems and whether we were successful in responding to these problems.

I will do everything I can to help Mr. Reilly address these pressing problems. Thank you, Mr. Chairman.

Senator MITCHELL. Thank you, Mr. Chairman.

Thank you, Senator Baucus and my other colleagues.

Senator BURDICK. Senator Baucus?

Senator BAUCUS. Mr. Reilly, I think the Majority Leader's last point has to be reinforced. You stated, and this committee has stated, the need for bipartisan cooperation generally and certainly specifically on various legislative efforts, and it would be very important and very helpful—in fact, nothing that I could think of would send a better signal than if the administration, particularly the EPA, were to consult with members of this committee sufficiently in advance of any public announcement of the provisions of the administration's Clean Air Act bill.

I will be chairing that subcommittee that will be dealing with that bill. I will also be introducing a Clean Air Act amendments bill. It is very much my hope that, if we are going to get results, you do in fact consult privately certainly with respect to acid rain provisions, the non-attainment provisions, and the very specific provisions necessary to be passed with that act.

Mr. REILLY. We will work to consult and cooperate and collaborate on this in a way that assures that there are no surprises and, hopefully, there is as much support across the board for what we propose as there can possibly be.

Senator BAUCUS. I appreciate that very much.

This may be a bit premature, but could you give us some sense of how we address the non-attainment problems of ozone and carbon monoxide? As you well know, the majority of the people in this country still live in areas where attainment of the standards have not yet been reached, both in carbon monoxide in ozone. In fact, in 1988, two out of three of the monitors indicated that we are still above the highest levels ever recorded in this country's history. What are we going to do about that? As you know, we postponed these deadlines in the past. How are we going to assure ourselves that we do not continue to postpone those deadlines?

Mr. REILLY. Ozone non-attainment is one of the big disappointments in air quality in the United States. I think we have close to half the population in something like 100 metropolitan areas still in non-attainment. Obviously, the legislation on clean air this year is going to have to give that a very high priority. It is going to be one that will be as complicated and difficult, I suspect, as any we will deal with. It touches a very large amount of activity in small businesses and automobiles and the daily lives of people in very fundamental ways.

I think it is premature for me to say specifically how we expect to confront it, but I will assure you that that will be part of what we will send up, and we will hope to address that as a priority this year.

Senator BAUCUS. You probably know that from 1972 through 1979 enforcement actions brought by the EPA grew at a fairly high rate; in fact I think they doubled each year over the preceding year. However, from 1980 to 1988, enforcement actions dropped; in fact there were over 40 percent fewer cases in 1988 than there were in 1980.

I heard you say that you were going to be a vigorous enforcer. Would you give us a little more idea as to what you mean by that?

Mr. REILLY. One of my first priorities will be to meet with the Attorney General and to work closely with the Justice Department to develop an arrangement that assures us that pollution enforcement get a very high priority.

I should say, I think, as Lee Thomas has said before, that the enforcement rate has trended up in the last 3 years at EPA. I believe that in that period there were as many enforcement actions as occurred in the previous several.

I know that you cannot create a climate for cleanup in the country without very strong and vigorous enforcement. There has to be a certainty that enforcement is there, that we take it seriously and intend to use it. That is as true in the Superfund program as it is in any of our other programs.

I have long been an advocate for voluntary settlements as a way to move faster to get hazardous waste sites cleaned up, but one should not have any illusions. The reason that people settle and come to the table voluntary is because they fear enforcement if they do not. So we have got to have the stick of enforcement; we have got to use it aggressively. It will be something that I will do.

Senator **Baucus**. I see my time is about to expire. I do not have your exact quotes, but as you were speaking I jotted some of them down, the best I could remember them. One is, "Never before has there been a need for leadership on the environment." That is a Bill Reilly quote. In addition, you said you will "pursue the highest standards in conducting the business of the EPA. No less than protection of human health," I think, is one of your goals.

Yet later on you mentioned the need for reconciliation of interests to work out our differences, and you said that there is essentially no conflict between growth and the environment. Now, if one is a skeptic or a cynic, one would say that there is some contradiction there. That is, how are we going to have a standard no less than protection of human health, and never before has there been a need for leadership on the environment, yet on the other hand advocate reconciliation of interests? Could you give us a little better idea as to how you, personally, intend to resolve that conflict?

Mr. **Reilly**. I think one of the best examples of that has already been discussed. We are talking about trying to get some acid rain legislation through the Congress this year. It has not passed in the last 10 or 12. How are we going to do that? We are going to have to sit down and, presumably, try to reconcile some interests. We are going to do it with the best interests of the country and clean air as a basis for it. We are going to work to try to see what we can get and give as little as necessary to do so, I suppose. This is an art of negotiation. I do not see any other way that will get us there this year, and I do not think that any other way would work.

Senator **Baucus**. Let me make a suggestion, if I might. In my experience, when it comes to the environment, as is the case of many other issues, to get results you have to be very strong and firm up front. When you announce in the beginning that you are a reconciler, that you are a compromiser, are you giving away half the store already?

So if you want to get the results that you profess that you want, I suggest that you convey a stronger message that in fact you are there to protect the environment, because if you do that, I think that the end result will be more close to where I think most people in this country want to end up.

Mr. **Reilly**. I appreciate that, Senator. The only thing I would say is that if you were looking at a situation where there has been a significant stalemate on any number of environmental issues, where there is a legacy—and I think it does exist—of distrust on the environment that has affected the conduct of our business at EPA, where you have the two parties sharing the Executive Branch and the Congress in the way that they do, I think it is clear that we have got to look toward collaboration and cooperation to the extent possible.

That said, my own commitment to environmental protection, to carrying out the statutes that EPA is responsible for, should be completely clear. The best answer, as I think someone said earlier, to a question about how tough we will be will come in time; it will come with deeds.

But I expect to be an advocate for the environment on issues affecting regulatory policy, new legislation, the budget, and across the board.

Senator BAUCUS. Thank you.

Thank you, Mr. Chairman.

Senator BURDICK. Senator Lautenberg?

Senator LAUTENBERG. Thank you, Mr. Chairman.

Mr. Reilly, I am sure the recent OTA report has come to your attention, the just-released report about the poor monitoring of contractor obligations. Have you looked at it thoroughly enough to comment on it?

Mr. REILLY. I have not read the report, Senator, but I am familiar with some of the criticisms.

Senator LAUTENBERG. Have you read it enough to say that those criticisms might be valid criticisms?

Mr. REILLY. Yes, I think there are probably some valid criticisms of that program. I have had some contact with it over the years since The Conservation Foundation organized the group Clean Sites to try to promote a faster rate of cleanup of these hazardous waste sites.

Clearly, the rate of cleanup has been a big disappointment to the public and to the agency. It is an enormously complicated problem that EPA has been given to address. It is the legacy of the industrial revolution that we are now charged with trying to clean up.

A decision was made early on to not add significantly to the bureaucracy at the agency but rather to foster the use of consultants and contractors. Now it would appear that there is some merit to the charge that many of these contractors are carrying out too-large responsibilities with supervision that may be by junior staff at EPA when we need more senior people involved.

I intend to organize an internal management review as soon as I take office at EPA to ask these questions and others about that program, with the aim of significantly speeding up cleanup.

I think the effort has got to characterized by a sense of urgency. Enforcement has got to be sure. And it would appear that our management has got to be more sound. I will look at all of those questions and get back to you, I would hope, within 90 days about my plans to respond to some of those criticisms.

Senator LAUTENBERG. The one thing—and I do not mean to cut you off, but we are under a little time pressure here—that is that I do not think one can conclude that contractor use is a bad idea. I think it is a fair conclusion to say that unless there is strict supervision, this job just will not get done. And I do not think, no matter how hard one tries, that you are going to be able to get the kind of staffing within the agency to get out and personally or directly supervise these cleanups.

On the coastal issue, you are again familiar with New Jersey, I know that. President Bush, then Candidate Bush, came down, and he declared our coastal pollution problems a national tragedy. New Jersey lost approximately a billion dollars' worth of revenues in perhaps our first or second most important industry, our resort industry. And now we are all recognizing some gain against the pollution problem that has beset us, particularly in our region. I do not know whether you saw the report issued recently that said that the Hudson river waters are now swimmable north of the New Jersey border. [Laughter.]

That identifies not the quality but the geography, if you don't mind. The New Jersey border lies in the most industrialized part, and of course directly across the river from New York City, where, with a lot of effort, we prevented them from discharging raw sewage a couple of years ago.

But we are gaining on it, and it would be a pity to lose some of the gains that we have made. One way to lose those gains is to inhibit or to contract spending for sewage treatment facilities.

Now, what has been asked for is approximately half of that which was originally authorized and negotiated through this committee and then agreed to by the administration. What do you do about trying to get funding? Is the funding level something that you consider important? Is the funding level not really the effective index of how we are doing? What are you planning to do about this?

Mr. **Reilly**. Well, the Federal Government has spent somewhere in the range of $50 billion on construction grants over the history of the life of that program, and it has been agreed for some time that there would be a phase-down and finally a phaseout of Federal involvement in the program. There has been an enormous amount accomplished under it.

I gather the concern now is that that phaseout is occurring too fast. I have not had a chance to get into it very thoroughly, but I will, and I will form my own opinion about how to proceed here.

The only point that I would make is that every time one raises a question of resource allocation in the present budgetary climate, there is a followup question, and that is: where does it come from? What is the tradeoff to be? If we are dealing with a finite block of resources environmentally, I just do not know whether construction grants would merit more money than some other areas of our budget.

Senator **Lautenberg**. Mr. Reilly, the one thing I would urge of you is not to fall prey to being an extension of OMB. I know how strong your advocacy is for a clean environment, and I would urge you to dig your heels in and say, Look, I have an area of responsibility that supports the views of most Americans across the country that the way to preserve the future is to preserve or clean up our environment. I would ask you to dig in and tell the President, tell OMB, that in order for you to do your job properly, you have to have the resources to do it, and as they used to say, let their mother worry about where the funds are going to come from.

Mr. **Reilly**. I am very aware of some of the areas we have been talking about, such as medical waste, your support and involvement in legislation. But that has not really been funded, and the agency is doing its best to fund it without a specific appropriation. There are some areas that are similarly needful. I will be an advocate for them.

Senator **Lautenberg**. Thank you.

Mr. Chairman, I would like to submit additional questions in writing, and I assume that the record will be kept open for that.

Senator **Burdick**. It will be agreed to. (See p. 209.)

Senator **Lautenberg**. Good luck, Bill.

Mr. **Reilly**. Thank you.

Senator **Burdick**. Senator Durenberger.

OPENING STATEMENT OF HON. DAVE DURENBERGER, U.S. SENATOR FROM THE STATE OF MINNESOTA

Senator **Durenberger**. Thank you, Mr. Chairman.

Mr. Reilly, as you can tell, your nomination to be the head of EPA is very warmly received here. I am going to add my expression of confidence—the best word I could come up with, the most appropriate—to those that have already been made this morning.

In fact, as you know, I have already introduced a bill that will give you a pay raise and a promotion. And if this bill becomes law, when you retire, you are also going to be entitled to one chair absolutely free of charge from the Cabinet Room.

Mr. **Reilly**. I think you have to pay for those chairs these days, Senator. I think I read that the other day.

Senator **Durenberger**. The bill to make EPA a Cabinet department is an important first step, I think, in restoring environmental protection to its proper place in the halls of government after a prolonged period of neglect. Hopefully, sometime this spring, the Governmental Affairs Committee will hold a hearing on the question of why Cabinet status, and I will hold up the record of today's hearing as a pretty good reason.

Today you are being asked about a $40 billion program to reduce sulfur dioxide emissions from electric powerplants. You are going to be asked about an approximately $100 billion cleanup program at Federal facilities. You are being asked about wide-ranging international negotiations which may determine the quality of life on this planet for this century, and you spoke well to that.

You are being asked about the management of Superfund, one of the largest public works programs in the history of America, likely to cost something over $500 billion. You will be asked about grants to State and local government entities which currently direct the work of about 30,000 people. You will be asked about the quality of air in our major cities, the contamination of a vast unseen resource called our groundwater supply.

When it was revealed that the drug czar was not to attend Cabinet meetings regularly, some of the administration suggested that the drug czar should not waste his time listening to presentations on agriculture subsidies and other odd items.

But I would be willing to say that many of the questions that we have heard today, and some from you and from the members of this committee, ought to be heard around the Cabinet table. I think it would add a lot of spice and interest to an agenda that normally is pretty dull.

The other objection to adding EPA to the Cabinet is simply numbers, I understand: How big is too big? On that point, I would say to the President through you today that yesterday our friend, Prime Minister Mulroney, named his Cabinet, 38 members, two-and-a-half times the size of ours, and the Minister for the Environment is at the table heading something called Environment Canada. Someone suggested that Environment USA might be an appropriate name for the agency that I expect you to head.

We all understand that this Cabinet question puts you in a difficult position. Your record in support of Cabinet status is clear. But in your new position, you cannot be seen as grasping for that free chair. But we know it is our job here to demonstrate the broad support which exists for elevating EPA to Cabinet status. I am happy to say we already have eight members of this committee who are cosponsors of the bill.

So we look forward to the day when we can call you Mr. Secretary. We have every confidence, based on your record, that you will be an excellent first Secretary of the Environment.

Having said that, let me go to George Mitchell's next seven years and his concern about where he is going to be spending his time. We know he spent an incredible amount of time in the last couple of months of the last session on acid rain and clean air. So we all share that concern. I understand generally where you are on the issue, and I have a couple of questions that will find out what you think are some of the appropriate or inappropriate elements of a program.

How about something called job protection as an element of an acid rain bill? Do you feel that that is where George was headed, generally? Do you think that is going to be a necessary part of this sort of program, or do you think we should go for a least-cost strategy?

Mr. REILLY. I know that is right at the heart of the debate, and I think, lest it lead me too far into that debate right now, I would like to keep my powder dry on that.

I wonder if I could come back to the Cabinet status issue, though, for a moment?

Senator DURENBERGER. Sure.

Mr. REILLY. I would say simply that I think this committee would be interested to know that, as you said, I have supported Cabinet status for the agency, largely for the reasons that other conservationists have, to elevate the issue, to make clear symbolically how important it is, and to provide parity at the table with other agencies and with other governments.

That said, I have discussed this with the President. He has had the feeling that he wants a more manageable Cabinet. He wants to keep it smaller, and he has reduced it already somewhat. But you should know that he has consistently treated me as a Cabinet member from the first moment he announced my appointment in the company of four Cabinet officer nominees.

He has invited me to the Cabinet meetings. I am a member of the Domestic Policy Council. I have had three or four conversations with him—incidentally, at each one of them he brought up international environmental issues. On the question of access and openness, which is a very important part of the concern for Cabinet status, he could not be more forthcoming and encouraging.

Senator DURENBERGER. Send him a note about Mulroney, the 38, as long as you are going, anyway.

Am I going to get another chance, Mr. Chairman? I have a couple more questions that I would like to ask, and I would be glad to defer to these other members.

Senator BURDICK. Yes.

Senator DURENBERGER. Thank you.

Senator BURDICK. Senator Reid?

Senator REID. Thank you very much, Mr. Chairman.

Mr. Reilly, what role do you foresee for the EPA in the potential siting of the Nation's high-level nuclear waste repository in Nevada or anyplace else?

Mr. REILLY. That is one on which I just do not have much information at this time, Senator. I have not gotten into it. I am not sure what our statutory responsibilities are there, and I had best not comment.

Senator REID. But you will get into it.

Mr. REILLY. I gather.

Senator REID. Would you, when you are settled in your office in the next couple of months, no longer than that, would you make sure that you and/or somebody from your agency visits with me on this issue before we get too far into the legislative session?

Mr. REILLY. I would be glad to.

Senator REID. I am happy to note a number of things from your statement. The language that you use in describing your feeling for wilderness, was satisfying to me. The statement which you made speaks for your belief in having areas set aside as wilderness.

But I am also pleased to note your support for preserving our wetlands and your awareness of the critical role that you will play in this.

In Nevada we have one wildlife refuge that is one of the most important in the North American flyway. It is an inland staging area for migrating birds called Stillwater. It is located about 70 miles or so east of Reno, near the small town of Fallon, Nevada.

It, at one time, covered 24,000 acres. It has now shrunk to less than 5,000 acres. It has not only shrunk in size, but the quality of the water is gone. It is now on the National Wildlife Federation's Endangered Wildlife Refuge list.

What do you feel should be the Federal Government's role in protecting wetlands? Wetlands in my State—we are short of water every place, and to have this great flyway on the verge of extinction is very troubling.

Mr. REILLY. Wetlands are a fundamental resource—the coastal wetlands and the inland wetlands—responsible, I think, for something like a third or more of the species of all sorts that we have on the continent. It is a resource that we understand. And we understood the values of wetlands very well in the late 1960's. Any number of States passed laws to protect wetlands.

And yet we continue to lose them at a very rapid rate. Something between 350,000 to 500,000 acres a year of wetlands continue to be lost, which I find very difficult to understand or explain. We clearly have to give wetlands protection a much higher priority than we have given it in the past.

The Federal Government has a role in this. The Environmental Protection Agency, through 404, in conjunction with the Corps of Engineers, has a role in it. States have a very important role. I have worked with the National Wetlands Policy Forum under the chairmanship of Governor Kean, which made a proposal that the country adopt as its national goal no net loss of wetlands, and in his campaign Vice President Bush supported that policy and said that the country should espouse it.

I think that we are going to have to do a better job of looking at both our statutory and our regulatory apparatus for protecting wetlands, but I would point out, too, that one of the things we learned in that forum was how very many wetland alteration decisions are not touched by the Federal Government. They are consequences of piecemeal alterations for draining, for planting crops, sometimes pollution or changes in salinity or water levels.

It is going to take a very concerted effort, I think, by all sectors of the society. But the national government ought to organize behind that goal, no net loss of wetlands, nothing further. We have lost 50 percent of all the wetlands that we had in colonial times, and enough is enough.

Senator REID. Mr. Reilly, you have indicated that it is not the fault of the Federal Government in many instances, and I recognize the reason for your making that statement. But don't you think that we should set a national policy that it should be the business of the Federal Government that we must stop a loss of wetlands?

Mr. REILLY. I do believe that we should make a very clear wetlands conservation policy, establish it at the highest levels of the Federal Government, and act to carry it out. I did not mean to say that it is not the fault of the Federal Government that we are losing these wetlands; in many cases it is Federal agency activities that have had substantial impacts on them. What I meant was that a very large amount of the wetland losses are not reached by the current Federal regulatory program.

Senator REID. The problem that we have in this one particular area is that we do not have time on our side. These wetlands in Nevada and in other places are drying up on a daily basis. We have suffered, in the last 18 months in that relatively small wetlands area in Nevada, the loss of thousands and thousands of birds, fish, and other wildlife too numerous to mention, and time is running out and soon it will not be part of the North America flyway.

Mr. REILLY. There are fairly shocking losses, reductions, in migratory waterfowl, migratory birds of all sorts, that may or may not have to do with wetland losses, but clearly wetland losses play a part in that, and I could not agree more with you.

Senator REID. Mr. Chairman, I would ask permission of the committee that I be allowed to submit questions in writing to Mr. Reilly for his written response.

Senator BURDICK. Can you get them in by 5:00 o'clock today?

Senator REID. I sure can.

Senator BURDICK. Granted. (See p. 244.)

Have you completed your examination?

Senator **Reid**. Yes, I have, Mr. Chairman. Thank you.

Senator Jeffords?

Senator **Jeffords**. Thank you, Mr. Chairman.

Mr. Reilly, we have listened to your very excellent qualifications and the history of your involvement with the environment.

The one concern I have—and I believe we are here to examine concerns that we may have—when the euphoria of the creation of the new administration settles down, what can we expect from you in the event that you, as some, tend to have the problem of not having access to the President, not being able to get in touch with him, and what commitment do you have from the President that you will, not having Cabinet status, have the ability to be able to meet with him and discuss problems.

For instance, when we get to the corporate average fuel economy standards, probably not a unanimous matter within the administration, and you do not get any response to your phone calls or whatever, are you going to have the strength to really buck these tough issues and be able to get through to the President and to express yourself and to get action?

Mr. **Reilly**. The President has made it very clear—and it was something we discussed at our first meeting—that I will have access to him. In fact, then he went beyond that at the first Cabinet meeting and said he wanted to be the kind of President that people around the table should feel free to call up. John Sununu said, "Well, please let me know if you do that," and the President said, "Well, if they think of it."

He clearly means to suggest that he is going to be open, he is going to take seriously the concerns to communicate with him on the part of members of the Cabinet and others at the table. I was at the table, as I mentioned, and he has indicated that I will be in the Cabinet Room whenever issues touch on the environment or the Environmental Protection Agency.

Incidentally, after that first Cabinet meeting, he walked over to me and Brent Scowcroft—we were in conversation—and he said, "Brent, we are going to have to be very careful to make sure that our foreign policy in this administration is sensitive to the environment," and he encouraged Mr. Scowcroft to work with me on that.

So in just about every way that he could, he has made clear that he intends for me to have access, he intends that the environment have a high priority in the administration, and I look forward to getting through.

Senator **Jeffords**. I know you served as a lead staffer on the Council on Environmental Quality, and that organization has had its better days and may have even had worse days, I am not sure. But what is your view of the importance of the Council on Environmental Quality, and what role do you expect it will play with this administration, and how do you expect to coordinate and work with it?

Mr. **Reilly**. I think that there are a number of environmental questions that touch the jurisdictional responsibilities of a variety of agencies, and from my time at CEQ, I can recall Agriculture, Transportation, Environmental Protection, Commerce Department conflicts, differences of opinions, needs for unified or coordinated policies.

The Council on Environmental Quality played at that time, I think, a very effective and constructive role on those issues. It also took the lead role in developing the President's legislative program on the environment.

In the past few years, the funding for the agency has not given it the same resources, not allowed it to play the same kind of ambitious role, and so it has received less attention.

Any President, I think, has to decide how he wants to be advised on the environment; in my view, the success of an agency like CEQ, which does not have regulatory authority and does not have a lot of grant programs it administers, has one thing. It has access or not, a standing or not, with the President.

If the President chooses to appoint someone to CEQ whom he trusts and respects and listens to, it can be a very effective force for good on the environment. I do not think any decision has been made yet what to do about the environmental adviser. The only thing I would say is that the Council has got to be funded at a level higher than it has been to play the kind of role that it used to play—I think that is obvious—and we will simply see how the President wishes to be advised on these issues.

Senator **Jeffords**. I believe you said you were going to be meeting with the Attorney General, and obviously you are restricted somewhat without his full cooperation and enforcement. Have you had any understanding with the Attorney General at all, or is that what you are going to be taking up?

Mr. **Reilly**. I have not had a chance yet. I have had a meeting with the Lands Division attorneys at the Department of Justice, a very good one, on the various issues that we collaborate on. The Department of Justice is the enforcement arm, obviously, for the Federal Government, and we need to have a very close working relationship on things environmental.

I think that we are likely to have that. I think that the priority that the President has made clear he gives to the environment, and I think the Attorney General's own interest in this field and his background in it, give me every reason to believe that we will have a first-rate working relationship on enforcement.

Senator **Jeffords**. Thank you.

Senator **Burdick**. Senator Durenberger?

Senator **Durenberger**. I call my next question, since Bill Siedman talked about it, the reverse toaster question. How do you feel about the use of subsidies in an acid rain program? For example, should we tax electricity sales or sulfur emissions nationally to help certain heavy polluters pay for cleanup? Do you have any problem with that sort of general approach?

Mr. **Reilly**. I do not want to say anything specific about our acid rain interests or preferences. I have, in the past, though, thought that emissions charges and various economic incentives to pollution control made a great deal of sense. They can sometimes supplement a firm regulatory floor and help us achieve objectives in a way that allows choices to people and gets economic incentives working right alongside our regulatory objectives.

I do not want to indicate by that, though, that this is going to be part of an acid rain bill. I just do not know whether it will or not.

Senator **Durenberger**. I hope sometime you can find a chance to talk to Nick Brady about the emissions tax bill. We have been trying for a long time——

Mr. **Reilly**. About the what?

Senator **Durenberger**. About the emissions tax approach, just so we have information on it. We have been trying for a long time to get Treasury's attention so they would at least analyze what some of the possibilities might be, and they just have not done it for one reason or another. So if you lift that up in the priorities, not only for acid rain, I am sure it would apply in other areas also.

How about looking at a national deposition standard in some way? Do you think that is appropriate, like they have up in Canada?

Mr. **Reilly**. Of what sort, Senator?

Senator **Durenberger**. Well, I think what they have done, or one of the things we have talked about, is a mandatory 30-year 0.9-pound limit for emissions, which we have replaced with a 40-year NSPS, and we worked through that strategy, and nobody was very satisfied with it, and so I just wondered out loud, as we were going through that part of the process, if some kind of deposition standard is more appropriate to deal with the whole issue of growth, I mean who gets to grow and who does not get to grow. Do you have any problems with exploring that?

Mr. **Reilly**. I have no problems at all with exploring that in order to find out more about what the Canadians think of it. I do not really know.

Senator **Durenberger**. All right.

Let me go over to ground water for a minute and ask you about the goal of a ground water program. This seems to me always the kicker when I go out and make a speech on ground water. The current policy at EPA is based on a strategy that I think they or somebody calls differential protection which sort of assumes that we are going to end up raiding our aquifers.

The alternative is non-degradation. What are your feelings about the possibility of shifting to non-degradation as a goal for ground water?

Mr. **Reilly**. There was a statement adopted by the National Groundwater Policy Forum a few years ago that was quite artfully drafted, as I recall, and it said that the goal should be to avoid the degradation of ground water in such a way as to protect human health and the environment. That proved a satisfactory goal for the interests that were represented on that Forum. I have not revisited that question since then.

The rest of the Forum's recommendations had to do, as you know from your long experience with ground water, with the merits of a classification system in States and the encouragement of States to take the leadership; in fact much of the leadership, most of the leadership, on ground water has come from a select number of States over the past several years.

I think we would have to look and see how the various standards operating in some of the better, more effective State programs have worked and make a determination about that.

Senator **Durenberger**. One of the things I noticed the States are doing, particularly in our part of the country, is a more comprehensive approach to the issue. Up here we have done a more source-by-source or an incremental approach, doing hazardous waste sites, then underground storage tanks, and now exploring pesticides.

Have you been at this long enough to have an instinctive feel as to whether or not a more comprehensive approach to ground water at the national level might be more appropriate than this source-by-source approach?

Mr. **Reilly**. I personally believe that the variety of legislative protections that touch on ground water, whether in the Clean Water Act or other areas of legislation, need better coordination than we have been able to give them; that a national ground water policy that is built on the recognition of the State leadership and the fundamental State role in this is probably desirable.

Senator **Durenberger**. One last question. As we move out of the era of regulating big industrial polluters into working on solid waste recycling and non-point-source pollution and wetlands protection, ground water contamination, and all that sort of thing, it really raises the importance of local government entities in this process. It gets us, as Steve took us a little while ago, into issues of land use, and so forth.

EPA recently established an office to provide technical assistance and support to local communities. This is a tough area to deal in. I hope that in your term you are going to not only recognize the value of that office but do what you can to encourage us, if necessary, and others to support the work within EPA of this office for local assistance.

Mr. **Reilly**. I know there is a great deal to be done in terms of supporting localities that take initiatives on the environment, that think of something like municipal waste and the extreme importance of moving toward behavior patterns that have people voluntarily, without thinking much about it, separating the waste stream in order to make the kinds of recycling that has got to be part of our future on that possible. A lot of that is obviously going to have to be done voluntarily with education, with cooperation, and localities will have the lead on it. So I would expect to give a high priority to that office.

Senator **Durenberger**. Thank you very much.

Senator **Burdick**. Senator Humphrey?

Senator **Humphrey**. Thank you, Mr. Chairman.

Mr. Reilly, in your statement you allude to your meeting or meetings with the President at the time you were considering his offer—I assume that is what this was all about—and you told him you wanted to help him be a great environmental President. What is a great environmental President?

Mr. **Reilly**. I think a great environmental President at this time is one who develops a vision, communicates it, supports strong environmental protection, makes clear that a fundamental job in this decade, in preparing us for the next century, is to do a much better job both of understanding the issues and addressing them before they become crises than we have managed to do.

Senator **Humphrey**. Did you lay down some caveats in connection with your acceptance of his offer?

Mr. Reilly. Well, I discussed with him the kinds of things that would matter to me, the kinds of things that would make an EPA Administrator effective at this time—questions of access, particularly, more important than anything else—and I was very reassured on those.

Senator Humphrey. Yes, access. Are you at liberty to share with us any of the other items you raised with the President at that time?

Mr. Reilly. Well, I discussed with him the kinds of things that I suppose anybody looking at a job like this considers—how appointments would be made, relationships with the White House and with the Office of Management and Budget, things of that sort, and the role that he personally would play on the environment.

I think it is very important that the President communicate—and one sees an immediate response to it across the administration—that an issue matters. And if he does communicate that, then you find that conversations go much better with the other agencies that we deal with.

As you know, the Environmental Protection Agency is involved, and not always in easy situations, with many members of the Cabinet. EPA, I think sometimes, is in the business of trying to get them to clean things up or accommodate laws or do things that involve difficult negotiations.

If it is clear from the start that the President cares about the issue, as he has made clear that he does, all of that is made vastly simpler.

Senator Humphrey. Did you discuss with him Senator Durenberger's proposal to elevate the status of the agency to the level of the Cabinet?

Mr. Reilly. Yes, I did. I gave him my own views and history on that. He said he understood and appreciated those views. He explained to me that his concern not to add to the Cabinet had nothing whatever to do with a feeling that this issue is not worthy of it; it strictly had to do with the manageability and size of the Cabinet.

I got the impression that the President is very aware, as I gather he has been told by a number of members of this committee, that legislation would be introduced and probably would have a lot of support on this, and he is reasonably open-minded about it. He is not actively supporting it, however.

Senator Humphrey. With respect to your own role, the role of Administrator, you state in your testimony:

> One function of the new leadership at EPA must be to help the American people achieve an even better understanding of the extent and seriousness of environmental issues.

How do you propose to fulfill your role in that respect? How will you be different than predecessors? I am not picking on anybody in particular, but you are suggesting something new here?

Mr. Reilly. Let me say that I think that I have had some very distinguished predecessors, and I personally believe that Lee Thomas is a tough act to follow. I think he has been a marvelously effective EPA Administrator during some very difficult times.

There is, however, a new breeze blowing. There is a new administration. There is a new priority for the environment. I think it is going to make possible a more sustained and perhaps a more informed debate on the environment than has been possible in the past.

Senator HUMPHREY. We certainly wish you well in that, and it would be well if we had not only your visible leadership, but the President's as well. So I commend you for making that request of the President.

Getting down to finer details, have you ever taken a specific position on the level of reductions in SO_2 that would be necessary to meaningfully deal with the acid rain problem?

Mr. REILLY. No, sir, I have not.

Senator HUMPHREY. You have not.

Mr. REILLY. Among my voluminous writings, I am happy to say, apparently nothing has come to light on that.

Senator HUMPHREY. Well, good. This is an excellent opportunity today for you to enlighten us for the first time. What are your thoughts?

Mr. REILLY. As I said before, I think this is an issue that, obviously, we will look at very closely. It will get as much consideration as any as we go about crafting our proposal on clean air. What precisely we say about it I really do not know at this time.

Senator HUMPHREY. All right. But we are not going to get the old story about more years of study.

Mr. REILLY. No.

Senator HUMPHREY. How soon can we expect a proposal?

Mr. REILLY. The President said in the campaign that the time to do nothing but study this problem is over. We have got to go beyond study. We are working very hard now to try to craft some ideas that I hope we will be able to share with you within the next few weeks on various aspects of clean air, early in the session.

Senator HUMPHREY. Including acid rain?

Mr. REILLY. Including, and most specifically including, acid rain as the top priority.

Senator HUMPHREY. In the next few weeks?

Mr. REILLY. In the next few weeks, I think we will have some ideas. I do not know how fast we will be able to get legislation here, but it is the first priority that we have legislatively. I am very aware from the conversations I have had with members of this committee that in many ways it is a test of the new breeze, and we want to vindicate it and pass that test.

Senator HUMPHREY. What role do you see, at this early juncture, for conservation in the makeup of the matrix attacking the acid rain problem?

Mr. REILLY. Well, I do not—you are speaking of specific incentives to conservation? I am not sure that I can say at the moment.

Senator HUMPHREY. No, that is not quite what I am getting at. I was not asking about incentives. I am hopeful that you are sensitive to the potential to stimulate conservation in the overall effort to reduce these emissions.

Mr. REILLY. Well, I said before in connection with the CAFE standards for automobiles that energy conservation offers us all sorts of opportunities to improve our economy, to improve our energy picture, to improve pollution, reduce pollution, and I believe that very strongly.

Senator HUMPHREY. Where does an EPA Administrator get fresh ideas? Is there, in the structure, some kind of study group, or do you have commissions or what? The reason I ask is that it seems to me that we need to be much more active in stimulating market-based solutions. Too often, in fact virtually all the time, the true costs of various options are hidden from manufacturers, from consumers. How can we get some new ideas?

Mr. REILLY. Well, the policy office at EPA has been, I think, very creative and has taken the initiative on this area for some time within the agency. The Office of Research and Development has a budget in the range of $300 million, which is another source of creativity and new ideas within the agency.

We have got a Scientific Advisory Board, whose chairman I met with in the past couple of weeks, that has played an increasingly important and effective role at making sure that we are sensitive to good science and use it.

I have also met with the National Academy of Sciences, which stands ready to help us on any number of issues, and has in the past. We have tried to cast a net—and I certainly intend to try to continue to do that—as broadly as possible to make sure that we do get new ideas.

I mentioned in my remarks that a lot of good ideas are out in the field. They are at the State and local levels. Many of the most important environmental initiatives, I think, have come from there in the past several years. We need to be in touch with them through our regional offices, our ten regional offices around the country. I think that we are.

Senator HUMPHREY. Thank you. I see that I am out of time.

I just want to say again that we cannot rely on Draconian enforcement alone. We have got to find ways of making true costs, of options evident, whether it is in solid waste or acid rain or any of the other problems, evident to our citizens, because they are masked nowadays, and we cannot blame people for making the wrong choices when they do not really know their true costs. I hope that your approach will seek to find ways to make these costs evident.

Mr. REILLY. It is clear that the regulatory approach, the command-and-control approach, has taken us very far and gotten us a great deal of environmental improvement in the United States. Looking ahead, we have got to join that with significant efforts at education and also look for economic incentives so that we get a broader, deeper involvement by the society in making some of the changes that are going to keep the environment livable.

Senator HUMPHREY. Good luck.

Mr. REILLY. Thank you, sir.

Senator BURDICK. Senator Baucus?

Senator BAUCUS. Thank you, Mr. Chairman.

Mr. Reilly, one of the natural, inherent dilemmas of all administrators is the degree to which you say and do what you think is right in the administration of your agency and, on the other hand, serving your boss, the President, because you may be the Administrator of the Environmental Protection Agency, but you are not the top man; President Bush is the top man.

I am wondering what you will do when you have vigorously advocated a certain point of view within the administration, and the decision is made within the administration against your recommendation.

There are various options you can take. One is to again make the case, try to change someone's mind, maybe the President, maybe Mr. Sununu, maybe Brent Scowcroft; we do not know who it is. But that is one option you can take.

Another option you can take is to go public because you very firmly feel that the environment should be protected, air more clean, do more on chlorofluorocarbons or greenhouse gases—who knows what it might be? You might feel that for the good of the country, the good of the people, to protect the public health, you should go public.

There is a third option you can take. That is, you could resign. You could be a good soldier—that is, you could say, even though I advocated my position forcefully and strongly, even though the administration disagrees, that I feel that it would be dishonorable to go public, so I will take the third option, and that is to resign and then publicly state my views once I resign, or you would make it clear as to the reasons why you resigned.

There isn't much of a tradition in this country of resignations. Sometimes I think there should be. I think that it helps the body politic and the public for there to be resignations on the point of honor and the point of higher public morality, what is important to the people in our country.

So my question to you is, what would you do when, after you have forcefully advocated a position through the administration, you were turned down?

Mr. REILLY. Senator, I remember learning as a little boy about judgments that were characterized as prudential judgments, and it sounds like you are thinking of circumstances that might present a lot of them.

It strikes me that anybody serving in the position that you are considering me for has to ask questions constantly: what is it that I am doing? why am I doing it? am I doing it responsibly and honorably? He has to ask it in the context of reality. What is the issue at hand? Is it truly a case of conscience, and am I unable, incapable, honorably, of carrying out a decision that I so fundamentally abhor? In that kind of circumstance, obviously, I think anyone has to withdraw, has to resign.

There are many other issues, as you well know, that involve decisions that honorable people can have differences of opinion on. As part of an administration, I will expect to be an advocate. As Administrator of the Environmental Protection Agency, I will be a very forceful advocate for the environment. I will try to work with the other agencies of government. I am joining an administration that I know to serve a President whom I have enormous respect for, whose commitment to the environment I accept. I expect to serve as a member of that team and to do so just as effectively as I can.

If the kind of problem that has in fact arisen in our government in recent years—in fact when one Administrator of the Environmental Protection Agency, not at the agency but before, as is well known, had to act on his conscience and resign. He did. I would hope that if I were ever confronted with an equally abhorrent choice, I would do likewise.

I certainly do not expect to be. I have every hope, every expectation, having had discussions with the President, with people on the White House staff, with the new leadership of the Office of Management and Budget, that we are all in this together; we are all committed to doing a better job on the environment and to making sure that we carry out effectively the statutory responsibilities that EPA carries.

Senator BAUCUS. Well, I encourage you just to use all the tools at your command, and you have many. I appreciate your statement. I fully expect you to not only work vigorously for enforcing the statutes that you have before you but also to work together on a team basis because you are that kind of person, and I appreciate that. I think everyone appreciates that.

But you are, after all, head of the Environmental Protection Agency, or you will be. There is going to be a Transportation Secretary, there is going to be a Commerce Secretary, who are advocating their agencies' points of view. And so, given the problems that face us and that you eloquently outlined in your opening statement, I encourage you to use all those tools that are available to you.

I frankly think it probably inadvisable to go too public within the agency, but I strongly believe that, if you believe you cannot achieve your results with the best public interest for better health and protection of the environment within the government, then I think the more honorable thing to do is to resign, because you will not be able to fulfill your commitments according to statute and according to your conscience.

The second point goes to a more mundane matter. Next week, you indicate to us that you or your people will come to Capitol Hill and begin to talk with us about a Clean Air Act. I just do not want to leave that open-ended. That is, next week, after you are confirmed, I hope we can begin to sit down and begin to work things out.

Mr. REILLY. I would be glad to do that.

Senator BAUCUS. One final point, and that is with respect to Superfund. We discussed this in my office. I am concerned that, at least in my home State, in Montana, whereas millions of dollars have been spent over a 6-year period on trying to clean up one of the most complex and difficult sites in the country—namely, Butte, Montana—virtually nothing has happened. That is, the dollars have been spent on paperwork and red tape and studies, but there have been virtually very few dollars spent on actual cleanup. It is lead, it is arsenic. The ground water is being contaminated, as you know; the Berkeley pit is starting to fill up, and that is starting to contaminate, actually and potentially contaminate, the water at lower elevations where people reside.

So I would ask you to kind of give the Superfund program a little kick in the pants and just get them moving so we can actually begin some cleanup.

Thank you.

Mr. **Reilly**. I will certainly do that, and I will look specifically at that site, Senator.

Senator **Baucus**. Thank you.

Senator **Burdick**. Senator Lieberman?

Senator **Lieberman**. Thank you, Mr. Chairman.

Mr. Reilly, thank you for your stamina and eloquence as this proceeding has gone on.

As I am sure you know, one of the most controversial environmental issues that will come before this Congress is the question of whether the Arctic National Wildlife Refuge area will be developed for oil. I gather that the Interior Department has indicated where it stands, which seems to be for oil development. Can we count on you, as the Administrator of EPA, to do everything you can to protect that beautiful, unspoiled piece of Earth?

Mr. **Reilly**. EPA's responsibility with respect to ANWR has been to ensure that the environmental analysis is sound and that environmental impacts have been thoroughly studied and analyzed. We will continue to carry out those responsibilities.

Senator **Lieberman**. Do you favor development, or do you oppose development?

Mr. **Reilly**. As nominee for Environmental Protection Agency Administrator, I think I am going to confine my own position to say that I will try to make sure that whatever decision is taken respects the integrity of the very important environmental resources at stake there.

Senator **Lieberman**. Again, I want to urge you to do everything you can as an environmental advocate to protect ANWR from that development and what many of us believe will be destruction.

If I may change the subject to the global warming issue, if there is anything I have seen on environmental matters in the month that I have been here in Washington, it is, no pun intended, that global warming is a hot topic in this town. That is good news in one sense because it does appear to me to be a real problem.

It is potentially bad news in another sense in that it may deflect us from focusing on and working out some solutions to problems that are closer to home that are tough problems. In other words, we may feel satisfied by simply attending conferences, talking about global warming, asking other nations to do more to help with the problem, and take us off the track. I count on you to make sure that we stay on the track of both.

Mr. **Reilly**. Could I comment on that?

Senator **Lieberman**. Please.

Mr. **Reilly**. One thing I think it is important to note about global warming is that many of the initiatives you would take to try to reduce CO_2 buildup in the atmosphere make very good sense in and of themselves for other reasons, for reasons of energy conservation or pollution reduction. So the reforestation, protecting the developing world against deforestation, all of those have very important and compelling reasons behind doing them irrespective of the global warming issue. So I do not think there is necessarily a distraction or a dichotomy between doing things for one and doing things for the other.

Senator **Lieberman**. I agree with you, and my concern is that no one use the concern to deflect us from acting on our local domestic problems.

The other thing that concerns me about global warming is that there seems to be a lot of activity, perhaps not coordinated, going on in this area. I have a chart that the Congressional Research Service put together that shows at least 12 different agencies and committees that have either asserted or have some jurisdiction in regard to global environmental policy, and yet, under the Global Climate Protection Act, EPA clearly is responsible for developing our policy and coordinating it with the State Department.

Do you have any plans to step in and try to bring this somewhat diffuse series of efforts together? More specifically—two questions, really, the second one, specifically—do you think that you need an Assistant Administrator at EPA for global environmental policy?

Mr. **Reilly**. I think, on the first question, we clearly need to figure out who is going to do what within the Executive Branch, and we have not done that yet. I had a brief conversation with Secretary Baker yesterday about global warming, and his and my appearance before the International Panel on Climate Change was intended to suggest the very high priority that the administration does intend to give the issue.

I have forgotten your second question. Excuse me.

Senator **Lieberman**. Not at all. Do you favor the creation of an Assistant Administrator at EPA for global environmental policy?

Mr. **Reilly**. I think it does make sense to elevate the attention given to international environmental issues and have that dealt with by an assistant administrator.

Senator **Lieberman**. Let me ask you a question that is a bigger question.

I was very interested to read a report that EPA issued last spring called "Unfinished Business." I don't know whether you have had a chance to see that.

Mr. **Reilly**. I have looked at it, yes.

Senator **Lieberman**. Have you? Coming from within the EPA primarily, I was struck by the concern expressed there that too great a proportion of EPA's resources are going to problems that are perhaps not as high priority as others that are being underfunded. Most specifically, the report concluded that more money was going to clean up Superfund sites than to deal with criteria, air pollutants, water pollution, ozone depletion, or active hazardous waste sites.

I gather you have read the report. What do you think of its conclusions?

Mr. **Reilly**. I have read the report. I thought it was a remarkable report, very interesting, in some ways, I suppose, even a brave report. Clearly, it provides an instrument for policy, for thinking about these issues, for reconsidering your resource allocations, and in that sense I think it is a very valid exercise.

Obviously, in making public policy on the environment, one listens to the science and one listens to the country and tries to make a reasonable mix of the two. That is the result of the statutes that we have to administer.

I thought it an excellent report, and I thought it evidence of the very high quality of staff that I look forward to having at EPA. It asked the questions about risk in a very considered, professional, and intelligent way, and I think it provided understanding—and I am sure it did up here—as we look to problems in the future needing priority attention versus those that perhaps need somewhat less. It is one more tool for making some of those decisions.

Senator **LIEBERMAN**. You are not prepared today—and I would not press you to—to say that you accept the conclusions but that you will use it as a tool as you determine your priorities as you go forward?

Mr. **REILLY**. Well, the report really did not recommend, as I recall, any steps; it merely stated that, based on the best information we have, some environmental problems appear to pose more serious risks to health than others. For that, I thought it was extremely useful.

Senator **LIEBERMAN**. Thank you.

Senator **BURDICK**. Senator Baucus?

Senator **BAUCUS**. No more questions. Thank you, Mr. Chairman.

Senator **BURDICK**. Any questions by anyone?

[No response.]

Senator **BURDICK**. The Senators wishing to pose additional questions to Mr. Reilly for the record will have until 5:00 o'clock this afternoon to do so, and if there is no further business, the meeting is adjourned.

[Whereupon, at 2:23 p.m., the committee was adjourned, to reconvene at the call of the Chair.]

[Mr. Reilly's résumé, responses to a committee questionnaire and additional questions, and statements submitted for the record follow:]

World Wildlife Fund
The Conservation Foundation

CURRICULUM VITAE

WILLIAM K. REILLY

EXPERIENCE

1985 - Present	President, World Wildlife Fund-U.S., Washington, D.C., one of 23 national organizations in the WWF international network; with 600,000 members and an annual budget of $30 million, WWF-U.S. is the preeminent private organization working to save endangered wildlife and wildlands worldwide, with emphases on protecting tropical forests in Latin America, Africa, and Asia and on promoting environmentally sustainable development through practical field projects linking conservation and economic improvement; over its 27 year history, WWF has sponsored or supported more than 100 countries. WWF's membership has tripled during Mr. Reilly's three years as president, and it is the fastest growing conservation organization in the country.
1973 - Present	President, The Conservation Foundation, Washington, D.C.; founded in 1948, with an annual budget of $5 million the Foundation is committed to improving the quality of the environment and securing wise use of the earth's natural resources by influencing public policy; current Foundation priorities include pollution control and toxic substances, public and private land use, and fostering environmentally sound economic development in the Third World; during Mr. Reilly's tenure, the Foundation published 3 "state of the environment" reports, the most comprehensive analyses of environmental conditions ever prepared by a private organization, and began a major program advocating direct cooperation between business leaders and conservationists in solving polarizing issues in resource and environmental policy

1972 - 1973	Executive Director, Task Force on Land Use and Urban Growth, a 12-member committee chaired by Laurance S. Rockefeller. The Task Force produced a popular report, *The Use of Land*, which went through three printings and 50,000 copies.
1970 -1972	Senior Staff Member of the President's Council on Environmental Quality with principal responsibilities in the areas of land use, public lands, urban growth policy and historic preservation. Authored decision papers and legislation in fields of land use policy, public lands' management, mining and mineral leasing laws and historic preservation.
1968 - 1970	Associate Director, Urban Policy Center, Urban America, Inc. and the National Urban Coalition. Co-Authored report for the Public Land Law Review Commission entitled "Probable Future Urban Demands Upon the Public Lands."
1966 - 1967	U.S. Army with the rank of Captain.
1965	Attorney: Ross, Hardies, O'Keefe, Babcock and Parsons, Chicago, Illinois.

EDUCATION

1971 M.S. in Urban Planning, Columbia University

1965 J.D., Harvard Law School

1962 B.A., Yale University

PERSONAL

Married in 1965 to Elizabeth Bennett Buxton, formerly of North Haven, Connecticut. The Reillys live with their two daughters, Katherine Buxton, aged 18, and Margaret Mahalah, aged 13, in Alexandria, Virginia.

AFFILIATIONS

Vice President of the International Union for the Conservation of Nature (IUCN), based in Geneva, Switzerland.

Member, Board of Directors, Northeast Utilities. (NU is the principal provider of electricity to Connecticut and Western Massachusetts.)

Member, Board of Directors, Clean Sites, Inc. (Clean Sites was created by a Conservation Foundation Steering Committee of chemical executives and environmental leaders to mediate the cleanup of hazardous wastes sites.

Member, Board of Directors, Winrock International Center for Agricultural Development. (Agricultural research training and service organizations with projects in Africa, Asia, and Latin America.)

Member, Board of Directors, American Farmland Trust.

Past Chairman, Natural Resources Council of America, 1981 - 1983. (NRCA is the association of all major conservation groups.)

Member, Gas Research Institute Advisory Council.

Member, Advisory Council, Concern, Inc.

Member, U.S. Citizen's Advisory Committee to Habitat, the U.N. Conference on Human Settlements and a member of the U.S. delegation in 1976.

HONORS

1984 Horace Albright Medal Winner (awarded for "outstanding contribution to the national parks").

1988 Alfred B. LaGasse Medal, Landscape Architecture Foundation (recognized "major achievement in the field of the environment").

SELECTED PUBLICATIONS AND LECTURES

"Managing Growth: From Accidental Cities to Successful Communities," Address to the Commonwealth Club of California, San Francisco, California, December 4, 1987.

"A Little Learning from 1100 Projects: Conservation and Development Moving into the 1990s," Address to the 4th World Wilderness Congress, Denver, Colorado, September 1987.

"Twenty Years of Progress - Country Report for the United States," Address to the Pacific Environmental Conference, Nagoya, Japan, June, 1987.

"The New Context for Conservation in Latin America," Keynote Address to World Wildlife Fund's 25th Anniversary Conference, "Partners in Conservation," Washington, D.C., September 17, 1986.

"Parks in the Pacific," Address to the 3rd South Pacific National Parks and Reserve Conference, Apia, Western Samoa, June, 1985.

"The Chemical Industry's Stake in Voluntary Cleanups," Address to the Annual Meeting of the Chemical Manufacturers in Houston, Texas, October 30, 1984.

"Toward More Efficient and Effective Environmental Policies," Keynote Address to the Conference for Ministers from OECD Countries, Paris, France, June 21, 1984.

"Cleaning our Chemical Waste Backyard," The Wall Street Journal, May 31, 1984.

"Soils, Society and Sustainability," Keynote Address to the 50th Anniversary Meeting of the Soil Conservation Society of America, Oklahoma City, Oklahoma, July 30, 1984.

"Surviving Success and Aging Gracefully," The Bemis Free Lecture Series, Lincoln, Massachusetts, October 28, 1983.

"Environmental Conditions and Trends," American Association for the Advancement of Science, Detroit, Michigan, May 27, 1983.

"The U.S. and the Global Environment: A Modest Proposal," Los Angeles World Affairs Council, Los Angeles, California , September 28, 1983.

"Reconciling Mineral Development and Environmental Quality," Colorado School of Mines, Golden, Colorado, April 1, 1982.

"The Challenge of Defederalization," Keynote Address at National Planning Conference of American Planning Association, Boston, Massachusetts, April 29, 1981.

"Conservation in the 1980s: Building a Firm Foundation," Town Hall of California, Los Angeles, California, July 8, 1980.

"The City in Transition," Faculty Chairman of Salzburg Seminar in American Studies, Salzburg, Austria, June 15-28, 1980.

"Reconciling U.S. Industrial and Environmental Policies," speech delivered at Conference Board Meeting, New York City, March 10, 1980.

"The Resettlement of Rural America," National Governors Conference, Washington, D.C., February 25, 1980.

"The Social Obligations of Property," Aldo Leopold Memorial Colloquium Lecture, University of Wisconsin-Madison, August, 1978.

"The Future of America's Land: Six Lessons from America's Past," The 1977 Carolyn B. Haffenreffer Visiting Fellow Lecture, Rhode Island School of Design, Providence, Rhode Island, October, 1977.

Editor (and a principal contributor), The Use of Land: A Citizens' Policy Guide to Urban Growth, 1973, Thomas Y. Crowell Company, New York.

"Conservation, Community and Personal Responsibility," the B.Y. Morrison Memorial Lecture, 1976. Keynote Address before the National League of Cities' Annual Meeting, Miami Beach, Florida, 1975.

UNITED STATES SENATE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Reilly (Last) William (First) Kane (Middle)

Position to which nominated: Administrator, EPA **Date of Nomination:** January 31, 1989

Date of birth: 26/1/40 (Day) (Month) (Year) **Place of birth:** Decatur, Illinois

Marital status: Married **Full name of spouse:** Elizabeth Bennett Buxton Reilly

Name and ages of children:

Katherine Buxton Reilly	18
Margaret Mahalah Reilly	13

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Durfee High School	1954-1958	Diploma	1958
Yale University	1958-1962	B.A.	1962
Harvard University	1962-1965	J.D.	1965
Columbia, University	1968-1971	MS-Urban Planning	1971

Employment record: List all positions held since college, including the title and description of job, name of employer, location, and dates. If you were terminated involuntarily from any position(s), please note the circumstances.

President, World Wildlife Fund, 1250 24th St. NW Washington, DC 20037, 10/85-pres

President, Conservation Found., 10/73-pres

ExecDir, Rockefeller Bros Fund, 1725 K St. NW Washington, DC, 7/72-10/73

Sr.Staff, Council on Environmental Quality 772 Jackson Pl. Washington, DC 7/70-7/72

Employment record—Continued

AssocDir. Urban America Inc., 1717 Mass Ave NW Washington, DC	6/69-4/70
Intelligence Officer, US Army,	6/67-12/68
Chief of Support, US Army	6/67-12/67
Dep for Counterintelligence, US Army	9/66-1/67
Intelligence School, US Army	4/66-9/66
Infantry School, US Army	1/66-4/66
Ross.Hardies, O'Keefe, Babcock McDugald & Parsons 127 Michigan Avenue, Chicago, IL	6/65-12/65

Honors and awards: List significant scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

VietNam Service Medal(in US Army during the VietNam War (awarded to all personnel who served))

B.Y. Morrison Prize

Aldo Leopold Lecturer

1984 Horace Albright Medal Winner(contribution to Natl.Parks) (awarded for "outstanding)

1988 Alfred B LaGasse Medal, Landscape Architecture Foundation ("major achievement in envir.field)

Partners for Livable Places Founder's Award, (for civic leadership)

Memberships: List significant memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Office held (if any)	Dates
World Wildlife Fund	President	10/85-present
Conservation Foundation	President	10/73-present
Intl Union for Conservation of Nature	Vice-President	6/88-present
Partners for Livable Places	Chairman	6/80-9/88
American Farmland Trust	Trustee	6/80-1/89
Winrock International	Trustee	4/80-1/89
Northeast Utilities	Trustee	5/86-1/89
Clean Sites Inc.	Trustee	5/84-1/89
German Marshall Fund of US	Trustee	6/85-present

Qualifications: **State fully your qualifications to serve in the position to which you have been named.**

I have given my career to efforts to manage better the land, air, and water in order to protect human health and maintain the integrity of natural systems on which life depends. These efforts have included a search for policies intended to improve the effectiveness and efficiency of the polution control practices of the U.S. and other countries, particularly by enlisting a broad range of affected interest in cooperative problemsolving.

Future employment relationships:

1. **Indicate whether you will sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate.**

Yes

2. **As far as can be foreseen, state whether you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization.**

I have no such plans or entitlements.

3. **Has anybody made a commitment to you for a job after you leave government?**

No

4. **(a) If you have been appointed for a fixed term, do you expect to serve the full term?**

I expect to serve at the pleasure of the President throughout his term.

(b) If you have been appointed for an indefinite term, do you have any known limitations on your willingness or ability to serve for the foreseeable future?

No

(c) If you have previously held any Schedule C or other appointive position in the Executive branch, irrespective of whether the position required Congressional confirmation, please state the circumstances of your departure and its timing.

Senior Staff Member, Council on Environmental Quality,
4/70 to 7/72, when I took a leave of absence to direct a
task force for the President's Citizens' Advisory Committee
on Environmental Quality.* (see below)

Financial Statement

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

Northeast Utilities, deferred Board fees, payable
in equal installments (approximately $12,000)over 5 years.

3. Are any assets pledged? (Add schedule).

No

4. Are you currently a party to any legal action?

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain the circumstances.

Yes

*In October 1973 I notified the Council I would not be returning for I had accepted the presidency of The Conservation Foundation.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes. No material charge as we were substantially upheld.

Potential conflicts of interest:

1. Describe any financial or deferred compensation agreements or other continuing dealings with business associates, clients or customers who will be affected by policies which you will influence in the position to which you have been nominated.

Northeast Utilities, deferred Board fees earned 1986-1989, are payable over 5 years upon my withdrawal from the Board this month.

2. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest, or the appearance of conflicts of interest, with the position to which you have been nominated.

None. My dependents and I have sold all stocks other than mutual funds and will place funds in c.d.'s, mutual funds or a blind trust.

3. Describe any business relationship, dealing or financial transaction (other than taxpaying) which you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, that might in any way constitute or result in a possible conflict of interest, or an appearance of conflict of interest, with the position to which you have been nominated.

The World Wildlife Fund and The Conservation Foundation have had a number of contracts with EPA on matters of national policy affecting such issues as global warming, integrated legislation, wetlands and hazardous waste cleanup. None of these should entail any conflict of interest for I wi maintain no financial relationshipwith the Fund or the Foundation.

4. Explain how you will resolve any potential conflict of interest, or appearance of a conflict of interest, that may be disclosed by your responses to the above items.

I will recuse myself from any particular matter on which I am so advised by EPA ethics counsel, or on which this committee believes a conflict exists.

5. Explain how you will comply with conflict of interest laws and regulations applicable to the position for which you have been nominated. Attach a statement from the appropriate agency official indicating what those laws and regulations are and how you will comply with them. For this purpose, you may utilize a statement by the relevant agency Ethics Officer.

I will abide by the policies set out in the EPA General Counsel's February 1984 Opinion, and March 1988 Inspector General's Opinion on which I have been briefed (on 1/13/89). A copy of the Deputy General Counsel's briefing memo is enclosed.

Political affiliation and activities: List all memberships and offices held in, or financial contributions (in excess of $1,000), and services rendered to any political party or election committee during the last 10 years.

None

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written. (Please list first any publications and/or speeches that involve environmental or related matters.)

SEE ATTACHED, ALSO:

The Use of Land, A Citizen's Policy Guide to Urban Growth, William K. Reilly, editor, Thomas Y. Crowell, publisher, New York, N.Y., 1973.

State of the Environment 1982, A Report from the Conservation Foundation, Washington, D.C., 1982.

State of the Environment, An Assessment at Mid-Decade, The Conservation Foundation, Washington, D.C., 1984.

State of the Environment, A View toward the Nineties The Conservation Foundation, Washington, D.C. 1987.

"The President's Statement", Annual Reports of the Conservation Foundation, 1974-1988

"The President's Statement", Annual Reports of the World Wildlife Fund, 1986-1988.

SELECTED PUBLICATIONS AND LECTURES

"Managing Growth: From Accidental Cities to Successful Communities," Address to The Commonwealth Club of California, San Francisco, California, December 4, 1987.

"A Little Learning from 1100 Projects: Conservation and Development Moving into the 1990s," Address to the 4th World Wilderness Congress, Denver, Colorado, September, 1987.

"Twenty Years of Progress - Country Report for the United States," Address to the Pacific Environmental Conference, Nagoya, Japan, June, 1987.

"The New Context for Conservation in Latin America," Keynote Address to World Wildlife Fund's 25th Anniversary Conference, "Partners in Conservation," Washington, D.C., September 17, 1986.

"Parks in the Pacific," Address to the 3rd South Pacific National Parks and Reserve Conference, Apia, Western Samoa, June, 1985.

"The Chemical Industry's Stake in Voluntary Cleanups," Address to the Annual Meeting of the Chemical Manufacturers in Houston, Texas, October 30,1984.

"Toward More Efficient and Effective Environmental Policies", Keynote Address to the Conference for Ministers from OECD Countries, Paris, France, June 21, 1984.

"Cleaning our Chemical Waste Backyard," The Wall Street Journal, May 31, 1984.

"Soils, Society and Sustainability", Keynote Address to the 50th Anniversary Meeting of the Soil Conservation Society of America, Oklahoma City, Oklahoma, July 30, 1984.

"Surviving Success and Aging Gracefully", The Bemis Free Lecture Series, Lincoln, Massachusetts, October 28, 1983.

"Environmental Conditions and Trends", American Association for the Advancement of Science, Detroit, Michigan, May 27, 1983.

"The U. S. and the Global Environment: A Modest Proposal", Los Angeles World Affairs Council, Los Angeles, California, September 28, 1983.

"Reconciling Mineral Development and Environmental Quality", Colorado School of Mines, Golden, Colorado, April 1, 1982.

Additional Matters:

1. If there is any additional information which you believe may be pertinent to the Members of the Committee in reaching their decisions, you may include that here.

None

2. Do you agree to appear before all Congressional Committees which seek your testimony?

Yes

3. Having completed this form, are there any additional questions which you believe the Committee should ask of future nominees?

No

AFFIDAVIT

________________________) ss, being duly sworn, hereby states that he/she has read and signed the foregoing Statement for Completion by Presidential Nominees including the Financial Statement and that the information provided therein is, to the best of his/her knowledge and belief, current, accurate, and complete.

William K. Reilly

Subscribed and sworn before me this day of , 19 .

____
Notary Public

RESPONSES TO QUESTIONS FROM SENATOR BAUCUS

Question:

While at the Conservation Foundation you have been a leader in confronting the challenge posed by a rapidly warming environment. As Administrator how will you deal with CFCs and other greenhouse gases?

Response:

The issues of stratospheric ozone protection and climate change are reflections of the growing complexity of environmental problems. Both involve extremely complicated scientific issues which stretch the limits of our understanding of the forces that fundamentally determine the earth's environment. Both are also international in scope and will take concerted global action to craft effective responses.

Through the leadership of my predecessor we have made an excellent start in dealing with ozone protection through the Montreal Protocol. We intend to continue to be in the forefront on this issue throughout the assessment process that is now underway and in strengthening the terms of the Protocol which is now scheduled to occur at a meeting in April 1990.

A strong international process has also been initiated to respond to the threat of climate change. The Intergovernmental Panel on Climate Change (IPCC) provides the essential first step of developing a common understanding among nations of the world of the nature and magnitude of the environmental risks and the possibilities to reduce those risks. The United States is chairing one of the panels of the IPCC and is actively participating in the others. EPA will play a leading role in the our government's involvement in the IPCC.

Question:

What policies do you support to ensure that new energy technologies are available when additional conservation measures are no longer available?

Response:

The area of improved energy efficiency cuts across many air pollution programs and should be part of any solution to acid rain, ground-level ozone and certainly climate change. We need to create the conditions where industry considers possible reductions in energy use in developing new production and pollution control technologies and in retrofitting old ones. This is an area where direct regulation will generally not work, but where EPA can take an active role in selectively providing seed money for research, in working cooperatively with industry, and in raising the level of awareness throughout the public and private sectors.

Senator Baucus

Air Questions

In your opinion what do we need to do to get all areas below National Air Quality Standards (NAAQS) for ozone and carbon monoxide?

Response: As you know, EPA has focused considerable effort on this issue over the last several years, as has the Congress is considering Clean Air Act (CAA) amendments. I agree with former Administrator Thomas that CAA amendments are urgently needed in this area and I will be submitting recommendations in this regard. Measures and approaches proposed or being implemented by EPA that appear necessary to deal effectively with the ozone and CO problems include: emphasis on accurate emission inventories, setting specific targets for progress and measures for tracking progress, expanding planning areas, an effective combination of Federal and State control measures, and availability and flexible use of sanctions.

Senator Baucus

Q. Enforcement on air violators has been declining steadily since 1980. What will your enforcement trends look like? What will your priorities be for enforcement?

A. My understanding of the Agency's air enforcement program is that the program has demonstrated a steady increase over the past five years. While there was a decline in the number of civil referrals and administrative orders during the early 1980s, the Agency has shown a marked increase in the level of activity in recent years. According to Agency documents, the air enforcement program achieved an all time high of 122 civil referrals in 1987 and an all time high of 224 administrative orders in 1988.

It is my expectation that the EPA's enforcement program regarding air violators will continue to demonstrate the strong federal presence that has been shown over the past five years. I do not foresee any decrease in that area and will continue to ensure that air violators receive the proper enforcement response.

EPA's air enforcement priorities will concentrate on resolving violations of volatile organic compound emissions limitations in ozone non-attainment areas and to maintain the Agency's efforts in enforcing the hazardous air pollutant requirements with special emphasis placed on asbestos violators.

QUESTION FROM SENATOR BAUCUS

> Every Administrator has to some degree tried to impose, through regulation, guidance and policy, cost effectiveness tests for air standards even though the courts have continuously overturned these tests. Do you feel that public health is the driving force for Clean Air regulations? If not, what factors do you believe should be considered and under what circumstances? Should every citizen be provided the same level of protection?

Response

The Clean Air Act clearly places priority in its requirements on the protection of public health. In some cases, costs may not be considered, as in the establishment of national ambient air quality standards. However, in many places in the Act, consideration of cost is explicitly called for in the establishment of standards, especially those which are technology-based.

While I have not reviewed this issue in detail, I understand that the issue of how to consider costs and what level of risk to both individuals and the general public is safe or acceptable has been especially controversial both to the public and in the courts in the case of national emissions standards for hazardous air pollutants. I understand that in response to a court settlement, EPA proposed on July 28, 1988, four policy approaches for national emission standards for benzene that address this issue in some detail and asked for public comments. Since the Agency is under a court order to take final action on this matter by August 31, 1989, I expect to consider the court's direction and the comments submitted on the four proposed policy approaches in making a final decision. I also expect that these issues will need to be addressed in amendments to the Clean Air Act.

Question:

Deadlines, auto and other vehicle standards included in last year's Clean Air Act were based on the premise that they are necessary to preserve public health. Do you support standards based on this premise? Do you support the standards that were in last year's Clean Air bill (S.1894)?

Response:

I certainly agree that the National Ambient Air Quality Standards (NAAQS) should be established at levels necessary to preserve public health. Once these goals are set, the next step is for the federal government, along with state and local governments, to decide on the measures that should be taken to achieve the NAAQS. I believe that further controls on motor vehicles, as well as stationary sources, are necessary in order to bring our cities into attainment. EPA staff will be briefing me very soon on the priorities of further mobile source controls and other issues in preparation of EPA's participation in the Clean Air Act debate.

Question:

What steps should be taken to address methane and carbon dioxide? Do you support loosening of the car efficiency standards (CAFE)?

Answer:

I am looking to two areas for possible answers to what steps can be taken to reduce carbon dioxide and methane emissions. First, the Intergovernmental Panel on Climate Change has a working group on response strategies which is chaired by our government and which has the charge of addressing this issue. I attended their first working group meeting and was encouraged by the commitment by the world community to addressing this issue. I am also looking to new technological developments to reduce greenhouse gas emissions and the possible role of EPA and other Agencies working cooperatively with the private sector in facilitating those developments.

It is clear that new and increasingly difficult challenges confront us in our efforts to protect the global environment and that new relationships and institutions are going to be necessary to meet those challenges. I am enthusiastic that EPA will be in the lead over the coming years in meeting these challenges head on.

I am very concerned that any loosening of the CAFE requirements would be a move backward rather than forward in efforts to reduce air pollution and to cut greenhouse gas emissions. We should be encouraging improvements in gas efficiency technologies. This is an area I would want to review in greater detail as Administrator.

Q. A company called Marine Shale Processors, in Louisiana, has advertised that a company that sends its hazardous wastes to it will lose all liability as the waste is turned into aggregate. This company has testified before the Hazardous Waste and Toxic Substances Subcommittee in the 100th Congress. The Resource Conservation and Recovery Act was enacted to insure that the treatment, storage and disposal of hazardous waste was undertaken in a manner to protect public health and the environment. I am aware that the Marine Shale matter is currently before the Grand Jury for a possible criminal action. I would like to request that you personally acquaint yourself of this matter. Should the treatment, storage or disposal of a hazardous waste which is handled by an aggregate kiln such as Marine Shale utilized be treated differently than a hazardous waste handled in a permitted hazardous waste treatment, storage or disposal facility? Should all facilities treating, storing or disposing of hazardous waste meet the same level of protection of public health and the environment.

A. Because there is an ongoing criminal investigation concernng this facility I am not in a position to comment on the question of whether Marine Shale is currently complying with RCRA. I understand that Dr. J. Winston Porter, EPA's Assistant Administrator for Solid Waste and Emergency Response, testified on this issue last April before your Subcommittee on Hazardous Wastes and Toxic Substances. At that "Recycling Hearing", Dr. Porter noted that the Agency is developing regulations that would regulate emissions from boilers and industrial furnaces burning hazardous waste for recycling purposes just like emissions from hazardous waste incinerators. These boiler/furnace regulations will be promulgated about a year from now. I can assure you that I intend to be fully briefed on all the issues associated with this matter as soon as possible.

Question:

What controls on the emissions and disposal of CFCs will you support?

Answer:

EPA issued a final rule in August 1988 implementing the Montreal Protocol. This rule does not directly limit emissions or disposal, but instead relies on limits on CFC and halon production. By limiting the supply of these chemicals, the rule relies on an innovative market-based method of achieving the required goals of the Protocol in the lowest cost to our economy.

As part of our efforts in implementing the rule, EPA has worked closely with various CFC industry groups to establish cooperative projects to facilitate the transition away from ozone-depleting chemicals. For example, we have worked with the auto companies and service repair organizations to develop a voluntary standard for recycling CFCs from automobile air conditioners which are the single largest source of emissions. We are also working closely with the Department of Defense (DoD) and electronic firms to modify DoD purchasing specifications to allow for alternatives to CFC-113. Another project just getting started involves a cooperative effort with government labs, refrigerator manufacturers and EPA to explore alternative refrigerants that are more energy efficient.

The Agency also issued an advance notice of proposed rulemaking in August 1988 which states specific regulations on emissions and use that EPA would consider if industry failed to respond to the market incentives created by limits on supply. The Agency will continue to monitor the situation to determine if reductions in CFC demand are, in fact, occurring, and will determine at some future date if specific limits on CFC use or emissions are desirable.

Question:

Do you support phasing out the use of CFCs and over what time frame, and for what CFCs?

Response:

Based on new scientific information, it is clear that we need to go further than the requirements now contained in the Montreal Protocol. I think it is reasonable to look forward to a United States position calling for a total, or near total phase-out in the chemicals regulated under the Protocol. More specifics about our negotiating position must await further review. We have initiated two studies that should help fill in the details of our position and answer your questions in greater detail. One study looks at the health and environmental impacts (including effects on ozone depletion and climate change) of the chlorinated compounds not covered by the Montreal Protocol. This study should give us better information on the risks from these chemicals, which include many of the proposed substitutes for CFCs. The second study looks at the quantity of CFCs that will be needed to service existing capital. This study should provide answers to how fast and how far we can phase-out CFCs.

Question:

The Montreal Protocol is a good start in dealing with the production of CFCs which destroy stratospheric ozone. But greenhouse gases affect the troposphere and the stratosphere. How do you propose to address the full complement of greenhouse impacts caused by CFCs rather than focusing only on stratospheric impacts? What should be done about CFCs not currently part of the Montreal Protocol?

Answer:

This question underscores the complex nature of the changes in the atmosphere caused by industrial activity and the need to look at cross-cutting issues and to avoid looking at one pollution to the exclusion of other related problems.

The Global Change Division in the Office of Air and Radiation has initiated a study that analyzes the relationship between CFCs, their substitutes, and their possible impacts on atmospheric chlorine levels, energy efficiency, and climate change. The results of this study should help point the way toward identifying those steps that will effectively protect the ozone layer and will also contribute to reducing greenhouse gas emissions.

Q. EPA's Solid Waste Agenda for Action suggests that landfills and incinerators will be necessary for the foreseeable future to handle some wastes. Given the Nimby (not in my backyard) syndrome how will you ensure enough safe capacity to manage our solid waste?

A. Under RCRA, states and localities are responsible for assuring that adequate capacity is available to handle their municipal solid waste. EPA is responsible for establishing minimum criteria for landfills that are protective of public health and the states are responsible for adopting criteria which, at least, meet those minimum criteria. EPA will be working closely with States and localities to assist them in their planning activities. EPA and the States must be sensitive to local concerns, and States must work with citizens to asure that the criteria are understood and that solid waste facilities are sited appropriately.

Q. The Agenda for Action also suggests that EPA will identify economic, regulatory and possibly legislative incentives for decreasing the volume and toxicity of waste. What type of incentives would you support?

A. I am certainly concerned about the increasing volume of waste in this country. EPA is doing a study which will examine the impacts of various options to see whether, in fact, there are incentives which will actually reduce the volume of waste. When that study is completed, I will be in a better position to determine which incentives, if any, I will support.

Q. Last year Congress passed a Medical Waste Tracking bill that will apply to certain States. Do you believe you need additional statutory authority to regulate all Medical Wastes or do you plan to reactivate President Carter's proposal to regulate Medical Waste as hazardous waste?

A. In addition to the requirement that the Agency develop a two-year demonstration tracking program, the Medical Waste Tracking Act of 1988 requests that EPA and the Agency for Toxic Substances and Disease Registry report to Congress on a number of topics directly related to the magnitude of the problem posed by Medical Waste to human health and the environment. We believe that this is an appropriate means of ascertaining whether and to what extent national regulation governing the management of Medical Wastes should be imposed. We may find that, after completing these studies and evaluating the tracking demonstratin program, additional statutory authority is appropriate to ensure that Medical Wastes are appropriately managed commensurate with the actual threat that they pose to human health and the environment. At present, I do not believe there is a basis to regulate Medical Wastes as stringently as we currently regulate hazardous wastes.

Questions from John Breaux:

1. **What initiatives do you plan to pursue to implement the President's "no net loss of wetlands" objective?**

Answer:

I fully support the goal of no net loss for this nation's wetlands. This goal was developed through the consensus process of the National Wetlands Policy Forum. In addition, the President has made this goal an objective for his incoming administration.

EPA has already taken some steps towards meeting this goal. EPA recently released a "Wetlands Action Plan" in response to the Forum's recommendations. In this plan, EPA adopted the goal of the Forum to achieve no overall net loss of the nation's remaining wetland base, and where feasible, to increase the quantity and quality of the nation's wetlands resource base. This goal means that we will seek to fully offset wetland losses with wetland gains. However, in the regulatory context this does not mean that EPA stands ready to trade natural wetlands for those that are restored or created-- the first step is to avoid impacts to wetlands whenever feasible.

In addition to the "no net loss goal", the action plan outlines seven objectives and some of the major EPA actions which implement specific Forum recommendations. As Administrator, I would evaluate the effectiveness of the Agency's efforts under the plan and direct revisions as needed to set the long-term agenda to establish a more complete response to the Forum's recommendations. I will also direct my immediate attention to ensure some of the key elements of the plan move forward. For example, I will work on the development of a joint mitigation policy for the Section 404 program with the Department of Army. I will also take a leadership position in working with other federal and state agencies to encourage and support their efforts to incorporate wetlands into their programs and actions.

QUESTION: What priority will wetlands restoration and conservation receive during this Administration?

ANSWER: EPA will continue under this Administration to place a high priority on wetlands restoration and conservation, and is committed to taking strong and direct actions to protect our nation's valuable wetland resources.

As part of EPA's commitment to wetlands restoration and conservation, we will be responding to and implementing recommendations made by the National Wetlands Policy Forum to improve the nation's ability to protect and manage wetlands resources. In particular, we have established seven objectives to meet that challenge:

- Providing technical support and participation in the application of planning approaches to protect wetlands;

- Providing guidance, technical assistance and support to enhance the role of state and local governments in wetlands protection efforts;

- Increasing the effectiveness and efficiency of the Clean Water Act/Section 404 regulatory program;

- Developing a joint mitigation policy with other key federal agencies that reflects a policy that unavoidable wetland impacts should be fully offset by wetlands restoration or creation and also focuses on the goal of no net loss of wetlands;

- Increasing public awareness of wetland functions and values, as well as wetland protection programs;

- Developing methods for assessing cumulative effects of wetland loss and degradation; and

- Identifying opportunities and initiating projects to restore and create wetlands.

With respect to wetlands restoration in particular, we are also conducting a major research effort to advance the state-of-the-art in wetlands restoration and ensure broader awareness of restoration techniques.

In addition, we will work with other agencies and the Congress to examine any legislative changes that may be necessary to improve the nation's ability to protect wetland resources, including changes to the Clean Water Act, the 1990 Farm Bill, the Coastal Barrier Resources Act, and the Resource Conservation and Recovery Act.

While these objectives constitute a major portion of EPA's planned activities to improve our ability to protect wetlands, it does not encompass the full range of EPA's activities. EPA will continue to place a high priority on wetlands restoration and conservation, and will continue to work towards improving our ability to protect and manage the nation's valuable wetlands resources.

ISSUE: CLEAN AIR--NON-ATTAINMENT

Question

Areas, such as Los Angeles, who are revising their SIP's to come into compliance with Ozone standards, are significantly strengthing percentage reduction requirements. Oil refineries in the California area argue that proposed new percentage reduction requirements will result in the shutting down of refineries. Shouldn't EPA be worried about the national security implications of shutting down such a large volume of refining capacity, when the United States has already passed the 50 percent level for imports of crude oil and refined products?

Answer

The Los Angeles plan referred to in this question poses a number of difficult issues. As you know, the air quality problems faced by Los Angeles are among the most serious in the United States. Local authorities in Los Angeles and the State of California, to their credit, are trying to grapple with the difficult question of how to reconcile the need for clean air with activities by both industry and ordinary citizens which, taken collectively, have contributed to the air pollution problems in the Los Angeles Basin.

I have not reviewed the proposed Los Angeles plan, so I would prefer not to comment on the factual issues raised in your question. I understand that the plan is undergoing a detailed review by citizens, industry, and government officials. My own inclination is that local areas should make the initial choices on how to best achieve clean air without imposing unacceptable hardships on the local economy. However, issues such as the ones you raise will need to be considered not only in this context, but also in the context of amendments to the Clean Air Act. Clearly, we need to find approaches to address clean air in ways that are scientifically credible, maintain momentum for continued progress, and challenge us all to do the best we can without imposing unacceptable social disruption or compromising the nation's security.

Question: **What can be done to speed up EPA's Section 102 (MPRSA) OD site designations?**

Answer: The first point I would like to make is that site designation is not an easy task. The Agency has to conduct baseline scientific surveys of potential sites and to assess the potential impacts of the dredged material on the physical and biological resources at the site. This is not to say that we cannot be more efficient and timely in site designations.

Several efforts are now underway at EPA that address these concerns. All of these efforts are being closely coordinated with the COE as noted below.

1. EPA and the COE are preparing a joint Site Designation, Monitoring, and Management Manual. This document will describe the site designation process, factors that are considered, and will provide for effective and consistent decision-making.

2. EPA is preparing a dredged materials testing manual that will provide a nationally consistent approach to judge the acceptability of disposal options and will be used in concert with the above noted Site Designation Manual. This document has already been drafted, reviewed by the COE, and is expected to be issued as an interim manual late this fiscal year.

3. The EPA testing manual will also be used in concert with a Joint EPA and COE Dredged Material Management Strategy Manual. This document will provide for an assessment of available disposal options to ensure an environmentally acceptable option is selected.

In addition to the above effort, the EPA and COE have entered into a national memorandum of understanding (MOU) with an objective of providing better short and long term management of dredged material disposal activities. The MOU prioritizes needed actions by EPA and the COE for site designation. EPA Regional offices and COE District offices are currently developing MOUs on the local level to assure that these management objectives are met.

Question: What will the agency's overall strategy be in characterizing and reacting to the question of global climate change?

Answer: (Some strategies answered in response to a previous follow-up question)

The overall strategy will be decided upon completion of the two reports the EPA is preparing for the Congress. A few elements of this strategy are clear. These are:

1. Support the work of the Intergovernmental Panel on Climate Change to work towards an international consensus on this question of global climate change;

2. Continue our research on impacts of climate change on natural ecosystems and study of sources of emissions of greenhouse gases;

3. Policy analysis of three main strategies available to us for mitigating the dangers of global warming:
    1. reducing emissions,
    2. improving energy efficiency, and
    3. increasing reforestation

   We will evaluate the relative merits and cost-effectiveness of each of these three strategies.

4. In addition, we will coordinate this work closely with our efforts to reduce CFCs as a part of the Stratospheric Ozone program.

QUESTION

What emphasis, funding and ranking will research be given in the agency's program to address the uncertainties in changes to the atmospheric composition of greenhouse gases.

ANSWER

Uncertainty about the future atmospheric composition of greenhouse gases is one of the most important scientific issues we face. There is much we still do not know about mechanisms by which important greenhouse gases enter or leave the atmosphere. EPA's research office has spent the last year working with the world's scientific community to prepare a long term EPA research strategy. That document, which will guide EPA's Global Climate research investments, will be peer reviewed by EPA's Science Advisory Board in February 1989.

Current plans are to spend a significant portion of EPA's global climate research budget on sources, transport, and biogeochemistry of major greenhouse gases other than CO_2. However, as I review the Agency's overall global change research program, I will determine whether a realignment of resources is necessary. All research planning is being coordinated through the Global Change Working Group of the Federal Coordinating Council on Science, Engineering and Technology (FCCSET) Committee on Earth Sciences (CES). Each agency involved is planning in a broad federal context.

What level of resources should the U.S. commit to global climate issue?

The pressing issues of global warming, stratospheric ozone depletion and other global climate related issues deserve substantial attention through the acceleration of scientific research activities and the exploration of policy options. A Federal interagency group, the Committee on Earth Sciences (CES) has developed an initial strategy for a comprehensive long-term U.S Global Change Research Program in order to provide a sufficient Federal commitment to the issue. The Program will provide a sound scientific basis for developing national and international policy on global changes. Funding for the focused global change research activities for the seven Federal agencies participating in the Program totals $133.9 million in FY 1989. President Reagan's FY 1990 budget proposes a funding level of $190.5 million across all Federal agencies. One of my first priorities will be to review this proposal and determine if it still addresses emerging priorities adequately or if a realignment of resources is necessary.

Question: As a matter of policy what specific measures should the U.S. pursue over the next few years to address this concern (examples include ecological data collection, improved GCMs, international efforts, mandatory conservation and other unilateral energy efficiency policy, source controls and incentive programs?

Answer: Further improvements in our understanding of the behavior of the earth system, and in improved general circulation models are urgently needed. The three or four broad strategies available to us are emissions reductions, increasing reforestation efforts and energy efficiencies. Examination of technologies, practices and policies in the agricultural sector are also required.

Examples of EPA's efforts are given below:

Ecological data collection: EPA's research and support of research on understanding the impacts of climate change on ecological systems is bound to increase our knowledge base and data that we have on the responses of these systems.

Improved GCMs Research on improving general circulation models to incorporate feedbacks in the climate system, improve grid resolution and their ability to predict regional impacts is an urgent need. EPA has worked with GCM groups in other agencies to develop data sets.

International efforts: Any overall solution to the global climate change problem will require the cooperation of many countries--both developed and developing. In addition to actively supporting the efforts of IPCC(Intergovernmental Panel on Climate Change), the EPA is pursuing bilateral agreements for collaborative research in a number of other countries (e.g. China, the Netherlands, Canada, USSR). We also have had initial discussions with colleagues in Brazil and India.

Energy Efficiency Policy: Improving efficiencies in various energy production and utilization processes provides us with an important strategy to combat the potential effects of rapid climate change. Many of these technological options are appealing on other grounds as well e.g. competitiveness, economics, reductions in conventional air pollutants, and energy security.

ISSUE: INTERACTION WITH STATE AND LOCAL GOVERNMENTS

1. What is your view on the role of local and state government being involved in environmental policy making decisions?

A. It is vital that States and local governments be effectively involved in the process of formulating environmental policy. EPA's statutes generally assign a primary role to States for managing environmental programs and for implementing national standards. Both state and local governments actions are critical to the success of EPA's environmental mission.

Effective involvement of States and local governments in policy considerations involves the development and maintenance of thorough communications, an informed understanding of the options available, and a careful consideration of the consequences of such actions at all levels in the environmental management system.

I believe that an open policy process with maximum opportunities and discussion and analysis is the most effective way to achieve sound policy direction. EPA through a number of techniques has, over the past several years, begun to develop methods for achieving this end. I intend to move promptly to examine the successes and failures of these techniques and to initiate, where appropriate, further opportunities for increasing the interchange between the Agency and States and local governments.

2. What level of interaction do you think EPA should have with local governments?

A. Local governments throughout the country are facing difficult decisions about solid waste management, drinking water, air issues, and wastewater treatment. Technical assistance is needed as well as help in identifying financial alternatives that will supplement decreasing federal funding. The Agency has developed good channels of communication and dialogue with national organizations which represent local governments. I intend to increase that dialogue and encourage consultation on a regular basis. Small local governments are a particular problem. EPA recently undertook the first comprehensive examination of the cumulative costs of these and other requirements and financial capability. The results suggest a need to develop creative solutions to help these small governments to meet their needs. A Small Communities Coordinator program is now being put into place to focus on the needs and concerns of these small governments. The effort will be to ensure that they are consulted and that their concerns are addressed in the regulatory process; that program and regional staffs are sensitive to those needs and concerns, and that other Agency efforts such as technology transfer, technical assistance, peer-to-peer exchanges extend to these small governments.

3. What institutional arrangements will be made in EPA to facilitate interaction between the Agency and state and local government?

A. I intend to review the structure, work and accomplishment of all aspects of EPA as to interactions with state and local government. From this review, as appropriate, I intent to initiate internal organizational and structural changes designed to promote and encourage interactions with state and local governments, consistent with good management practices and sound environmental policy.

In this connection, I intend to review the accomplishments of the State/EPA Operations Committee and to work with its state members to increase involvement in critical Agency activities. I will review the recent steps taken to heighten awareness of local governments, especially those involving small governments. I will encourage and expand the recently created Small Communities Coordinator program in order to fully accomplish its mission.

I will begin my duties with the Agency with face-to-face discussions with key state and local leaders, to gain first hand discussions on key issues, and I will take the actions necessary to enhance existing institutions and, where necessary, to create new institutions.

Q. Your predecessor testified several times before Committees in both Houses to the effect that he saw no need for new legislation on acid rain. He was not convinced that the scientific evidence justified the huge expenditures that would be necessary. What is your opinion on the acid rain issue?

Answer: Over the past several years as the results of the scientific research became available, my predessor became convinced that a reduction in sulfur emissions would be necessary. However, no conclusions were reached on the amount or timing of those reductions, and therefore, on whether or not new legislation was needed. I believe that existing Clean Air Act authorities can not provide sufficient or timely assurance of the substantial reductions that I believe will be needed to deal with this problem.

Question: Do you agree with the statement, "that we face an ecological crisis without any precedence in historic times is no longer a matter of any dispute worthy of recognition. Those who...take the contrary view that there is significant uncertainty about whether it is real are hurting our ability to respond"?(Quote from Sen. Gore)

Answer: Any response action which the EPA and the United States choose to pursue will be undertaken after carefully weighing the uncertainties associated with the available policy options. The uncertainties are not about whether the greenhouse effect is real or whether increased greenhouse gas concentrations will raise global temperatures. Rather the uncertainties concern the ultimate magnitude and timing of warming and the implications of that warming for the Earth's climates, environment, and economies. The nature and magnitude of the various physical and biotic feedback processes that modify earth's climate are also not very well understood which hampers our ability to make projections for the future. The timing of corrective action is an important policy decision and as it is unlikely that the uncertainties surrounding the science will be soon removed, it is prudent to take corrective actions that are justifiable on other grounds as well.

Question: What is your general philosophy about the use of ocean and coastal waters for the disposal of dredged material?

Answer: As you know, Lee Thomas issued an Interim Coastal and Marine Policy last month. I believe the general philosophy in that policy is sound; it says the following on dredged material:

> **GOAL: Minimize the use of coastal and marine waters for waste disposal by strictly limiting ocean dumping, ...**
>
> **OBJECTIVE: Dredged Material: We will maintain strict standards to ensure that disposal of all dredged materials will not degrade coastal and marine waters. The use of clean dredged materials for beach nourishment, marsh creation and restoration will be encouraged.**

To meet the goals and objectives of this Policy, we have several actions underway. One of these actions is the development of a Dredged Material Management Strategy Manual which will provide a framework for evaluating disposal options. The decision criteria will include a multi-media assessment of potential impacts and risks as well as potential benefits of disposal options.

Issue: Wetlands Conservation and Restoration

Do you favor delegation of the 404 Program to States? If so, under what conditions do you favor delegation?

Answer: It is very important that States take a more active role in addressing the wetlands loss problem. While many States have some form of program affecting wetlands, and several have very comprehensive and effective programs, much remains to be done to develop a State-based network of programs that adequately protects our wetlands resource across this nation. I do support delegation of Section 404 Programs to the States, and would work as Administrator to assist States to develop assumable programs. The conditions under which I would favor delegation would be those where the State program extends coverage to all waters of the State, including all wetlands regulated by the Clean Water Act; where the scope of activities regulated is the same as that regulated by the federal program; where opportunities for public involvement are provided; and where environmental standards are as high as those imposed at the federal level. These conditions are consistent with the law and with the principles of sound Federal/State relationships. Of course, to be approvable, a specific application from a State would also have to comply with other requirements of the law and regulation.

I would like to note that I would encourage States to develop programs that not only allow assumption of Section 404, but also provide more comprehensive protection of wetlands. For example, in addition to regulation, the States should also address financial incentives and disincentives, planning approaches, acquisition, public information and education, restoration initiatives, and public/private cooperative ventures. I would also recommend that State regulatory programs include hydrological modifications that Section 404 does not include, such as drainage of wetlands without a discharge. States should also integrate wetlands protection into their traditional water quality management programs, to keep wetlands from being unacceptably degraded by wastewater discharges and other pollution sources.

Senator Burdick Confirmation Hearing
Questions for Administrator-Designee Reilly

Q. In addition to the Environmental Protection Agency, this Committee has oversight responsibilities for the Federal Highway Administration. As you know, there are many important environmental laws that apply to the Federal-aid highway program. In your view, how can this nation both protect its environmental resources and meet its highway needs?

Response: While there are situations where differences may arise between highway needs and environmental concerns, I am optimistic that with proper planning and interagency coordination we can meet our transportation requirements while protecting the environment. Appropriate mitigation, agreed upon before hand and included as an integral part of the cost of projects, will be a central theme of my environmental efforts with the Federal Highway Administration.

Question: Many EPA actions have been delayed by the Office of Management and Budget. What will you do, specifically, to end the logjam created by OMB's behavior?

Answer: I am confident that we can avoid unreasonable delays in this administration. I intend to work with the OMB director to establish a solid relationship. We will reach an understanding about how our staffs will deal with important disagreements, especially on elevating issues within our agencies to resolve differences. OMB has an important and necessary role to play in regulatory policy development, and differences inevitably will arise, but we should still be able to resolve them and meet our obligations in a timely and productive way.

Q. Were the Environmental Protection Agency to have difficulty in implementing a statute will you and your staff, in every instance, come to the Congress and discuss the nature of the difficulty and discuss possible remedies, legislative or otherwise?

A. Where there are legislative obstacles to implementing a statute, I would want to engage in full discussion with the Congress to provide a complete understanding of the difficulty. Similarly, where the current statutory requirements are overly restrictive or force an unreasonable result to evolving environmental problems, I believe early discussions with Congress would be productive.

In May 1986, this Committee released a report entitled "Office of Management and Budget Influence on Agency Regulations." The report expressed a great concern about OMB's use of Executive Order 12291 to substantively influence Agency regulations and to delay their promulgation.

Unfortunately, OMB's interference has continued unabated since the issuance of our report. At the current time, several important EPA rules are caught in the OMB logjam. These include the Agency's final asbestos ban rule under the Toxic Substances Control Act, which has been in rulemaking for nearly 10 years, and the Agency's corrective action rule under RCRA, one of the most significant hazardous waste regulations. In both of these cases, OMB has ignored its own time guidelines for completion of the review process and has attempted to substitute its judgment for the expertise of EPA officials.

Q. What action do you plan to take to ensure that the expert decisions of EPA prevail and that the Agency's final asbestos rule and proposed corrective action rule are published promptly in the Federal Register.

Answer:

The respective roles of EPA and OMB in the area of regulations are clear. EPA develops the regulations, and only after the Agency's top management approves the regulations do they go to OMB for review. It is important that the OMB review be accomplished quickly and that OMB not try to substitute its judgment on technical matters for the judgments of the Agency's technical experts.

For example in the case of the final Asbestos Ban and Phase Out rule, this process seems to be on course. The Administrator sent the final Asbestos Ban and Phase Out rule to OMB on December 16, 1988.

Agency staff had many hours of meetings with OMB during the 30 days that followed even though it was during the holiday period. OMB staff have now indicated their differences with the rule and Agency staff and management plan to discuss these with them during the next week or two. Although this OMB review has taken longer than the 30 days they are allowed under the Executive Order, OMB staff devoted considerable time to it, despite the holiday period, and Agency staff do not feel that OMB has been unduly delaying this rule.

However, now that the issues have been identified at the staff level, I can assure you that EPA will place a high priority on assessing these issues, formulating EPA's position, resolving any outstanding issues within the Executive Branch and taking appropriate action.

The proposed rule for corrective action at Solid Waste Management Units has been undergoing review by the Office of Management and Budget since October 7, 1988. I understand that the Agency is working closely with OMB to answer the few remaining concerns. If OMB has not completed its review by the time I am sworn in as Administrator, I can assure you that I will take the necessary steps to quickly resolve the remaining issues and have the rule published promptly.

For the past eight years EPA has not been forthcoming with new legislative proposals. For example, only when faced with a Congressional override of a Clean Water Act veto did the Administration back a proposal -- chiefly to curb funding levels.

Question

What can we expect from you and this Administration in the way of new initiatives?

Answer

As I have already told the Committee, the Administration will be sending up amendments to the Clean Air Act. I think I can assure the Committee that this will not be the last legislative initiative from the Administration.

BURDICK

Q. As you know, the Reagan Administration never supported funding the grant and loan program for assisting schools in asbestos abatement.

Part A. Considering that schools must begin implementing management plans under AHERA this July, do you anticipate a change in this policy?

Answer

Not necessarily.

Since 1985, the Agency has provided nearly $160 million for about 1,800 individual asbestos abatement projects in the Nation's schools. Another $42.5 million will be distributed in April 1989 to needy schools which have serious asbestos hazards in their buildings. We believe this program has already addressed many of the serious school asbestos hazards which would warrant removal.

The AHERA schools rule program is primarily an inspection and management program, not a removal program. Essentially, schools are required to inspect for asbestos-containing building materials and establish plans for managing and appropriately abating these materials. A primary component of implementing this program is in-place asbestos management activity which emphasizes notification, worker training and asbestos repair and other remedial action.

Schools, under AHERA have the option of removing asbestos from their buildings, if resources are available, if accredited professionals are retained for abatement and if a series of special precautions are taken. However, removal will not generally be required for AHERA school rule compliance. In addition, it is not clear that grants and loans to schools is the most effective use of the next dollars for asbestos in buildings. Technical assistance and enforcement against contractors who do not meet the health and safety requirements might well result in more health protection than loans or grants to specific school systems.

Part B. What are your views on developing a regulatory program to address asbestos in public and commercial buildings?

Answer

I will want to assess in depth the thorough and careful study which EPA did on this subject for Congress in February of 1988 ("Study of Asbestos-Containing Materials in Public Buildings") mandated by AHERA. In summary, EPA concluded that a comprehensive regulatory inspection or abatement program, such as recently implemented under AHERA for schools, is not appropriate at this time for public and commercial buildings.

Primarily, EPA was concerned that such an undertaking may stimulate more asbestos removal actions in these buildings during the next few years than the infrastructure of capable accredited professionals and government enforcement personnel can handle. Improperly performed or ill-timed removal can actually aggravate an asbestos exposure problem rather than solve it.

Second, Administrator Thomas concluded that EPA needs to continue the primary focus on schools, where risk -- to our children -- may be highest. During the next several years, AHERA school rule activities will stretch the available resources of trained and accredited inspectors, contractors and laboratories to their limits, along with the compliance assistance and enforcement capabilities of the various levels of government. A great deal of effort over the past two years has gone into the schools program and we must be very careful now not to take action which might undermine its success.

Finally, the Administrator believed that the country should not embark upon a large, costly new regulatory program of asbestos control without first addressing basic questions which could significantly improve the effectiveness of the response in public and commercial buildings. EPA has already begun activities to determine if the AHERA schools rule approach is working as intended in schools and if the approach, in whole or in part, might be appropriate for other buildings. EPA also plans to undertake some basic research, identified in the Report and endorsed by Congress, to learn more about the magnitude of asbestos exposure, particularly "peak" exposures, in these buildings and the efficacy of alternative abatement actions.

Rather than promulgating immediate new rules, EPA has begun a guidance, technical assistance, outreach and enforcement enhancement program to:

o increase the number of reliable accredited experts who provide counsel on abatement options or conduct abatement activities;

o improve the technical knowledge and capabilities of buildings owners, contractors, workers and others involved in asbestos management and control;

o improve the effectiveness and coordination of existing Federal asbestos control and worker protection regulations;

o institute a special technical assistance program for thermal system insulation, primarily pipe wrapping, which is more common, more often damaged and of greater asbestos content than other asbestos materials. (Generally, it is also easier, faster and cheaper to abate.); and

o assess our present AHERA schools rule efforts and conduct the key research noted above.

This position should not be interpreted as ruling out an inspection rule or even greater Federal regulation of public and commercial buildings at some time in the future. As the Administrator noted in the Report, this is a question the Agency intends to address in about three years, after we have had more experience with the AHERA schools rule, have dealt with the large surge of demand for trained and qualified professionals, and have completed the assessments and studies.

As the Agency completes the activities listed above, Agency staff plans to work very closely and productively with the building community, worker groups, industry and others now involved in asbestos management and control. This will ensure that, as the facts become clearer, we are in an increasingly better position to move quickly, effectively and efficiently with any subsequent actions, including regulatory actions, which may be warranted.

Mr. Reilly, over the past eight years, EPA's record of meeting Congress' deadlines (many enacted after consultation with EPA career and political staff) has been very poor. For example, tge agency has missed virtually every important regulatory deadline contained in the 1987 Water Quality Act, including deadlines to regulate toxics in sewage sludge, polluted urban runoff (stormwater), and industrial toxics. Subsequent to the Superfund Amendments and Reauthorization Act (SARA), EPA was to have promulgated revisions to the National Contingency Plan (NCP) and the Hazard Ranking System (HRS) by April 17, 1988. However, it failed to even propose the NCP or HRS revisions until late December 1988. A recent General Accounting Office study details the numerous SARA deadlines missed the agency.

Question: What will you do to ensure that EPA meets its legal deadlines? Specifically,

a. How will you streamline EPA's process for developing regulations and taking other regulatory actions?

Answer: I first want to point out that the Agency sometimes has met its deadlines. For example, the Agency met the initial half dozen or so very tight deadlines it faced in implementing the SARA Title III amendments. In many other cases, it is clear that the Agency has been unable to meet many of its statutory deadlines. The number of these deadlines and the often severe time constraints imposed in our statutes make it very difficult to meet them consistently.

b. Many EPA actions have been delayed by the Office of Management and Budget. What will you do, specifically, to end the logjam created by OMB's behavior?

I intend to look into ways of reducing the likelihood of delays when they are avoidable. We will continue to explore the potential of regulatory negotiation and other consultative processes for achieving a smoother process. We will emphasize training for EPA staff on effective management of the regulatory development process. We will do our best to set priorities and to match the talent and resources we have to meeting the commitments outlined in our legislation. But we do have to recognize that there are limits to what we can promise, given the range of responsibilities, the complexity of many of our regulatory actions, and the number of tight deadlines we often face.

Question:

What will you do to ensure that EPA meets its legal deadlines? Specifically,

c) Some EPA actions have apparently been delayed due to an apparent lack of analytical laboratory capacity. What steps will you consider proposing to the Administration or the Congress to end these delays?

Answer:

I am advised that there were delays due to lack of analytical laboratory capacity earlier in the Superfund Program. However, over the past 2-3 years EPA has implemented major management actions to ensure adequate laboratory capacity. EPA presently has over 100 private laboratories participating in the Contract Laboratory Program in over 200 contracts. The program provides for competitive bidding and quality assurance requirements to ensure an adequate supply of known quality, cost-effective analytical services for Superfund field activities. In fact, EPA routinely plans for potential capacity of about 120% of projected needs to be able to provide for unexpected, "peak" demands, although the agency only pays for capacity that is actually used.

c. Some EPA actions have apparently been delayed due to an apparent lack of analytical laboratory capacity. What steps will you consider proposing to the Administration or the Congress to end these delays?

Having said this, it appears that there are several reasons why the Agency has had difficulty in meeting these deadlines. One is that often a substantial amount of scientific and technical uncertainty underlies its regulatory decisions, and there is a need for thorough data collection and analysis. Another is simply the mismatch between the number of deadlines the Agency must meet and the resources available to meet them. It is often not possible to stretch the available people and dollars to match the number and pace of our statutory deadlines.

d. With regard to dangerous toxic pollutants, EPA increasingly has been advocating an approach based upon something it calls "risk management". Is it not more logical and more protective of the public health and the environment that EPA's approach to toxic pollutants be risk reduction based upon the decrease or elimination of toxic releases?

Answer: The approach that the National Academy of Sciences and others have described as "risk management" is not inconsistent with the goal of risk reduction. By the term "risk management," we simply mean to distinguish the more objective, scientifically-based process of assessing risk from the more subjective decisions about controls on pollutants. For toxic pollutants, a decision about how to manage risk could well be to substantially decrease or eliminate them.

Risk reduction is EPA's primary mission. In achieving this goal of reducing risk, I intend to give very strong emphasis to a pollution prevention program. The most effective strategy for reducing risk to health and the environment is to prevent the production of waste and contaminants in the first place.

BURDICK

Q. As you know, the Reagan Administration never supported funding the grant and loan program for assisting schools in asbestos abatement.

Part A. Considering that schools must begin implementing management plans under AHERA this July, do you anticipate a change in this policy?

Answer

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o improve the technical knowledge and capabilities of buildings owners, contractors, workers and others involved in asbestos management and control;

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As the Agency completes the activities listed above, Agency staff plans to work very closely and productively with the building community, worker groups, industry and others now involved in asbestos management and control. This will ensure that, as the facts become clearer, we are in an increasingly better position to move quickly, effectively and efficiently with any subsequent actions, including regulatory actions, which may be warranted.

The Great Plains gasification project located in North Dakota was recently sold by the Department of Energy to Basin Electric Power Cooperative.

Last year, EPA and the North Dakota Department of Health determined that certain wastes at the gasification plant were exempt from designation as hazardous waste under RCRA's "Bevill Amendment". However, new rules were proposed by EPA on October 20, 1988 which do not contain the exclusion.

Q. Do you agree with EPA's direction regarding the "Bevill Amendment" particularly as it applies to the gasification plant? Will you commit to reviewing this matter and consulting with Senator Burdick and his staff concerning your findings?

A. No recent Agency action, including the October 20, 1988 rulemaking, changes the status of those wastes at the Great Plains gasification project that were previously determined by the Agency to be temporarily exempt under RCRA's Bevill Amendment. Although the October 20 proposal did not specifically address coal gasification wastes, comments submitted by Basin Electric Power Cooperative on that rulemaking indicate that certain wastes generated at the facility continue to qualify for the temporary exemption under the terms of the proposed rule. These wastes are candidates for study in the upcoming Report to Congress on mineral processing wastes. I fully expect to be briefed on all pertinent issues regarding the scope of the Bevill Amendment, including those related to coal gasification, before the rule is finally promulgated.

In the Januar-February 1987 issue of Journal of Soil and Water Conservation, you wrote an article entitled, "Agriculture and Conservation: A new Alliance." On page 17 of the Journal, you stated:

> If farmers have made a special claim upon the federal budget, it is partly because they make a special moral claim upon society...For most Americans, however, the farming life has become remote...Farmers need to recognize that there has been some erosion of the moral claim that farmers make on the rest of us, as the scale of commercial farming has changed...The conservation community is now a central participant in farm policy debates. The surest way to reassertthe moral claim on society is for farmers to demonstrate a whole hearted commitment to stewardship of the nation's land and water resources that lie within their care...But it is time to think about the new climate, the new rules, the new constraints, and the new opportunities in agriculture. It is also time for all of us to recall just how noble and important it is to care for the land; to broaden our horizons about the social and environmental benefits of farming; to reappraise the role agriculture will play in the rural Aerica of the future.

QUESTION:

a. How should conflicting environmental and agricultural concerns be balanced?

ANSWER:

There are indeed inherent conflicts in achieving environmental goals and agricultural production. But I think that what has become clearer and clearer over the past decade is that it's not an "either - or" question. The public demands both plentiful food and fiber and a healthy environment. The challenge for Government and other leaders is to manage the potential conflict constructively, and to seek the policies and actions which contribute to both goals. On EPA's part, the Agency needs to be sensitive to the impact of regulatory actions on the agricultural economy, and to work with agriculture to seek the solutions which minimize agricultural dislocation. On USDA's part, there must be an explicit recognition of how farm policies affect environmental goals, and to use such policies to the extent possible to protect the environment as well as support farmers. As Administrator, I intend to work hard at trying to merge agricultural and environmental strategies for the benefit of the farmer and the public.

QUESTION:

b. What is your reappraisal of the role agriculture will play in the rural America of the future?

ANSWER:

Agriculture will play a bigger and bigger role in achieving environmental protection. Farmers are more and more educated about the long and short term impacts of their practices on land and water quality, and more cognizant of the public perception about those impacts. In a more personal way, they are examining the chemicals they use and thinking about exposures to themselves and their families, and there is an increasing awareness in rural America that the "bottom line" is no longer a simple matter of yields per acre, but a complicated matrix involving production and quality of life.

QUESTION:

c. Do you believe that meaningful consensus building on agricultural-environmental matters requires meaningful participation of disparate interest?

ANSWER:

Yes - The whole nature of consensus building revolves around getting the various stake holders around the table and working on solutions. All parties must be represented for a meaningful dialog to take place.

d. How were agricultural interests represented on the "National Wetlands Forum"?

Answer:

d. I believe that Agricultural interests were well represented on the National Wetlands Policy Forum. The Forum members included three specific agricultural representatives: Richard Hollier of Opelousas, Louisiana; John Taylor of Virginia, Illinois; and Robert Wetherbee of Harlingen, Texas. In addition, Senator John Turner of Wyoming is a rancher. Staff representatives to the members were from: the National Association of Conservation Districts, the American Farm Bureau Federation, and the American Forestry Association. In addition the Department of Agriculture participated as an "ex officio" member.

e. What major groups participated in reaching the Forum's "no net loss of wetlands" consensus?

The Forum represented a very wide array of interests including governors and a state senator, state agencies, a local administrator, agriculture, forestry, development, oil and gas, environmental and conservation groups, and wetlands science and policy experts. (see attached list of members)

In convening the Forum, the Conservation Foundation spoke with over 200 individuals and organizations with an interest in wetlands issues. The Forum members continued to speak with interested parties throughout the process. In addition, the Forum held three public workshops in Louisiana, New Jersey, and Washington to try to bring in as many perspectives as possible.

FORUM MEMBERSHIP

The Honorable Thomas H. Kean, Chairman
Governor, State of New Jersey
The Honorable Carroll Campbell, Vice Chair
Governor, State of South Carolina
The Honorable Booth Gardner, Vice Chair
Governor, State of Washington
Peter A.A. Berle
President, National Audubon Society
William D. Blair, Jr.
Past President, The Nature Conservancy
Willard T. Chamberlain
Senior Vice-President for Corporate Affairs, ARCO
John DeGrove
Florida Atlantic University
Nancy R. Elliott
Supervisor, Town of Yorktown Heights, New York
James G. Gosselink
Louisiana State University
Peter Grenell
Executive Director, California State Coastal Conservancy
Jay D. Hair
President, National Wildlife Federation
Dick Hollier
Hollier Farms, Inc.
Dennis Kelso
Commissioner, Alaska Department of Environmental Conservation
Frederic D. Krupp
Executive Director, Environmental Defense Fund
Jack Larsen
Vice-President, the Weyerhaeuser Company
Melvin Simon
Chairman, Melvin Simon and Associates, Inc.
F. John Taylor
Taylor Grain and Livestock
John Turner
President, Wyoming Senate
Robert Wetherbee
Vice-President, National Association of Conservation Districts
Shirley McVay Wiseman
Shirley Wiseman & Associates

It is my understanding from the designated lead negotiator for the United States (the Assistant Secretary of the Army) on the Souris project payment to Canada, that a draft final agreement between the two countries is nearly finalized. Furthermore, it is my understanding from him that the United States position in these negotiations is that there are no remaining issues to be resolved and that the draft final agreement between the two countries should be completed by the end of February 1989.

Q.

a: Is this your understanding of the situation?

A.

a: It is my understanding the January 11-13 meeting with Canada in Ottawa resulted in a revised text of the Agreement that is considered acceptable by the US delegation that negotiated it. EPA was represented on that US delegation, and is prepared to concur on the text that was negotiated in the January meeting. It is EPA's understanding that when NEPA requirements related to the Agreement and subsequent US actions are completed, the Department of State will seek formal interagency clearances for the Department or the Army to sign the Agreement on behalf of the United States. We do not anticipate any problems in this regard.

Q.

b: Do you support the agreement as negotiated by the United States Government in its current final form?

A.

b: Yes.

Q.

c: Is there any official EPA opposition to the conclusion of this agreement?

A.

c: EPA does not and has never opposed the conclusion of this Agreement with Canada. EPA has served as a principal adviser to help ensure that the Agreement fully considers the related objectives of achieving flood control and water supply while maintaining water quality of the Souris River.

Senator Burdick Confirmation Hearing
Questions for Administrator-Designee Reilly

Recent amendments to several environmental statutes have included grant set-asides and regulatory provisions specifically for programs on Indian lands. In many cases, implementation of these provisions have lagged.

Q. In your view how can Congress and EPA better address environmental problems on Indian lands?

Response: It is my understanding that EPA was the first federal agency to develop a formal Indian Policy which stressed the importance of the government-to-government relationship between the federal government and tribal governments. I also understand that EPA has been working to apply the amended statutes in the unique legal environment of Indian reservations. The Agency would seem to have taken a deliberate approach, focussing on the development of consistent and streamlined approaches to tribal programs. In addition, it has emphasized consultation with tribal groups in developing the implementing procedures.

This seems to be a reasonable approach, as EPA develops experience in working with tribal governments. I believe that this experience will enable the Agency to respond in a more timely manner in the future. I look forward to working with the Congress to ensure that our remaining statutes, as well as any future environmental statutes, provide for implementation on lands under the jurisdiction of American Indian tribal governments.

One of the most highly criticized aspects of the OMB review process is the secret nature of the "negotiations" between OMB and agency officials. A 1985 House Subcommittee report concluded that this secret review process undercuts full public participation and incompatible with the goal of promoting rationality in decisionmaking.

Question: Will you commit yourself and your agency to include documents reflecting oral and written communications in the various EPA rulemaking documents?

Answer: I understand that EPA currently has a policy related to whether written and oral communications should be placed on the public record. If confirmed, I will review that policy and will modify it where I think it is necessary.

Superfund manpower turnover over the last three years has been quite high. It is my understanding that staff of the Office of Solid Waste and Emergency Response and the Office of Emergency and Remedial Response have developed a manpower training and retention program to address an aspect of this problem.

Q. Will you consider the impact of manpower turnover on the Superfund program?

A. I am aware that personnel turnover has been identified as a potential problem for Superfund by the Agency as well as external organizations, and I intend to follow-up on this issue. I understand that the Superfund program has already begun to undertake certain actions to improve the personnel situation, including providing more professional training and creating Regional "think tanks" to help site managers solve complex site problems. I plan to evaluate the success of these and other efforts, and to consider other ways that the Agency can retain its experienced workforce.

Q. Will you commit yourself to reviewing the manpower training and retention program and supporting it with the necessary resources if you find that it has potential to mitigate Superfund turnover rates?

A. As part of my comprehensive review of the Superfund personnel issue, I will evaluate the success the On-Scene Coordinator/ Remedial Project Manager (OSC/RPM) Support Program, and consider providing the funds necessary to implement this effort.

Q. Will you review the manpower training and retention program referred to with a view toward its application agency-wide?

A. As the OSC/RPM Support Program is implemented, I plan to evaluate its effectiveness in improving employee training and retention. Applicability of part or all of this effort to other Agency programs will be considered.

Question:

Clean Sites, Inc., an organization of which you were a founder and on whose Board you served, recently issued a report concerning its review of aspects of EPA's implementation of the Superfund program.

a. Have you commented publicly on the efficacy of this report?

Response:

No.

Question:

b. Within the counsels of Clean Sites, Inc., did you object to any aspect of the report as issued in final form?

Response:

b. I discussed a number of issues raised in the Clean Sites report in the context of reviewing an earlier draft with CSI board chairman Russell Train. One concern that I raised, for example, was the matter of board endorsement; since the findings and recommendations were not subject to scrutiny and deliberation by the Board as a whole, this needed to be clear in presenting the report.

Question:

c. Are you in basic agreement with the report's findings insofar as they reflect Clean Sites's experiential background?

Response:

c. Clean Sites' report was prepared under the direction of its very able President Tom Grumbly, with whom I have worked closely and for whom I have the highest regard. He and his very capable staff are the best evaluators of what their experience reveals about the Superfund program, and thus I take their findings seriously. I intend, in reviewing Superfund management, to consider Clean Sites' recommendations along with those raised by a number other recent studies. Since I have not had operational experience at Clean Sites and the board did not review the report collectively to discuss its numerous findings, the case for these findings, and the many recommendations, it is difficult for me to draw specific conclusions regarding the report.

This answer is intended to provide
additional background from EPA

Question:

Clean Site, Inc., an organization of which you were a founder and on whose Board you served, recently issued a report concerning its review of aspects of EPA's implementation of the Superfund program.

c. Are you in basic agreement with the report's findings insofar as they reflect Clean Sites' experiential background?

Answer:

I agree with many of the recommendations in the report. Overall it is useful in stimulating constructive dialogue on the direction of the Superfund program. There are many suggestions I intend to pursue with EPA staff, including the recommendation to provide more structure to selection of remedy and ways to improve responsible party takeover of site cleanup.

However, general recommendation number 3, which contains many suggested changes to the management structure, is one I want to discuss with EPA staff prior to forming a position. I am reviewing this recommendtion, I will be particularly concerned to ensure the accountability of decisions makers and to maintain clear lines of decision making authority.

I agree that the management structure of this difficult program continues to require attention.

Q.

One of the Clean Sites' Superfund report findings was that the agency has failed to make consistent use of the statute's tough enforcement provisions thereby sending a strong signal to potentially responsible parties that it would be in their best interests to come in and agree to protective, fair and reasonable settlements.

a. Do you intend to send a signal to Superfund potentially responsible parties and other environmental violators that EPA will use the strong enforcement provisions with which the Congress provided it?

b. Do you believe that such a signal, followed by demonstrated agency willingness to take strong enforcement actions will likely bring Superfund potentially responsible parties and other environmental violators voluntarily to the table sooner and in greater numbers than they have come to the settlement table?

A.

a. Yes, I do agree that as part of a comprehensive Superfund enforcement strategy, the Agency needs to send a strong message that, in appropriate cases, it is prepared to take vigorous enforcement action.

b. I believe that such a signal, combined with a willingness to engage in good faith negotiations with those who are willing to come to the bargaining table, is most likely to yield an environmentally beneficial result.

Q.

The previous EPA administration recently touted improved agency enforcement statistics. However, it appears that with regard to the Superfund program, and perhaps with other programs, there exists a backlog of actions waiting to be negotiated. Without attempting to judge whether or not these cases are more appropriately settled through negotiations rather than through litigation,

a. Do you consider it possible that budgetary and manpower resource constraints might be seriously limiting factors in eliminating the backlog and pursuing additional settlements where they are appropriate?

b. Will you commit to personally analyzing this possibility and seeking adjustments if they are found to be necessary?

A.

It is indeed possible that such constraints affect the settlement process. I believe that it is important for EPA to pursue Superfund settlements wherever possible, and I will assure you that I will look into all factors which may have an impact on EPA's ability to achieve such settlements.

The Clean Sites Superfund report commented that the so called "nine criteria" for selection of remedial actions at Superfund sites were not sufficiently detailed to provide, for Superfund remedial project managers, or anyone else, a sound understanding of the application of those criteria. It is suggested by observers of the program that inconsistencies in Superfund Records of Decision can be traced back, in part, to these somewhat loosely drawn nine criteria. I am also informed that various agency staff in both the program and enforcement offices believe that the nine criteria are insufficiently drawn to be used effectively in the Superfund selection of remedy process.

Question

Will you, personally and outside the review of public comments procedure, take a critical look at the nine criteria in question which were proposed in the agency's proposed revisions to the National Contingency Plan?

Answer

As I told the Committee, I intend to initiate a thorough study of the management of the Superfund Program and report back to you in 90 days. I am sure that this matter will be covered in that study.

Question:

The Clean Sites Superfund report commented that the so called "nine criteria" for selection of remedial actions at Superfund sites were not sufficiently detailed to provide, for Superfund remedial project managers, or anyone else, a sound understanding of the application of those criteria. It is suggested by observers of the program that inconsistencies in Superfund Records of Decision can be traced back, in part, to these somewhat loosely drawn nine criteria. I am also informed that various agency staff in both the program and enforcement believe that the nine criteria are insufficiently drawn to be used effectively in the Superfund selection of remedy process.

Q. Will you, personally and outside the review of public comment procedure, take a critical look at the nine criteria in question which were proposed in the agency's proposed revision to the National Contingency Plan?

Answer:

As I indicated at my confirmation hearings, I intended to have an internal review of the Superfund program. At the completion of the review and after reviewing the nine criteria as stated in the NCP, I will let you know of my conclusions.

In a previous question, I referred to the 1981 reorganization of the former Office of Enforcement. Currently, enforcement actions are initiated by the appropriate program media compliance section in a region, with legal support provided by the Office of Regional Counsel. These cases are then referred directly to the Department of Justice in Washington, D.C. for filing in court. Concurrent with this referral to the Justice Department, proposed cases are reviewed by two separate offices at EPA headquarters: the lawyers in the appropriate media division (i.e., air, waste, water, or toxics) of the Office of Enforcement and Compliance Monitoring, and the technical staff in the appropriate program media enforcement office.

It is, perhaps, interesting to note that no one office director or even Assistant Administrator (including the Assistant Administrator for Enforcement and Compliance Monitoring) has complete authority over the enfocement process at EPA. If there is a dispute among the offices involved, the Administrator or Deputy Administrator are the only EPA officials with the authority to make a decision that is binding on all of the offices involved.

My Committee frequently hears the criticism that while the agency publicizes that enforcement actions are up, a look behind the numbers suggests that this may be a "bean counting" exercise. That is, the cases counted may not be the complicated or environmentally beneficial ones. It has been suggested that since EPA allocates enforcement resources to the regional offices on the basis of the number of enforcement "beans", regions have little incentive to initiate enforcement actions against serious violators or violators with sizable assets because of the amount of agency resources such cases may consume.

Since almost all cases are developed and initiated by regional offices, headquarters has little, if any, direct control on the type of cases the regional offices select for judicial referral to the Department of Justice. If, indeed, regional decisions are sometimes based on the personal and/or political views of regional managers, rather than on environmental benefits and national policy then the public, you, and we, have a problem.

Q. How do you think a case selection system ought to operate?

A. A good case selection system has to start with national program enforcement goals and priorities, while also being flexible enough to address Regional concerns.

EPA has an annual planning process -- which involves both Regions and States -- in which senior managers from the Office of Enforcement and Compliance Monitoring (OECM) meet with senior media program enforcement officials to review enforcement goals and priorities. The results are reflected both in a memorandum from the Assistant Administrator of OECM to Regional Offices and in the program office operating year guidance. To enhance communications, EPA also publishes an annual article on enforcement priorities in the National Environmental Enforcement Journal, published by the National Association of Attorneys General, so that all enforcement personnel are familiar with the priorities and can factor them into the case selection process.

In addition to identifying national program priorities, EPA also encourages the programs to identify potential cases which have Regional significance (e.g., a specific geographical enforcement initiative) and permits the Regions to allocate a small percentage of their enforcement resources for these activities.

I believe this process provides a sound framework for individual case selection.

Q. What measures do you think are available to you to insure the public, and my Committee, that EPA's limited enforcement resources are used to obtain real environmental results against some of the most significant violations and violators of the nation's environmental statutes?

A. Under current management systems and the State/EPA Enforcement Agreements process, each program is required to define Significant Noncompliance (SNC), reflecting the environmental and enforcement priorities of the program. The progress of these high priority violators towards compliance is closely monitored through well defined lists. Regulatory and enforcement efforts are focused on the SNCs as the most environmentally significant violators which, by implication, should result in the most beneficial environmental results.

All Regions have developed systems for factoring high priority violations into their case selection process. An analysis of EPA's civil case docket over the past two years showed that at least 95% of the referrals to Headquarters by each Regional program involved Significant Noncompliers and and other high priorities. This is one good indication that the Agency is, in fact, developing worthwhile cases.

QUESTION: It is my understanding that the EPA currently is involved in reviewing a key permit application under section 404 of the Clean Water Act involving the Two Forks project in Colorado. Because many members of the Committee have a strong interest in EPA's implementation of this Clean Water Act program, would you please make sure that we are kept informed on a regular basis of the progress of that review, and of all preliminary decisions?

ANSWER: It is correct that EPA is currently involved in the review of a permit application for the Two Forks Dam project in Colorado, and I am well aware of the intense interest associated with this proposal. At present, the Section 404 permit process has not yet reached the stage where the Regional Administrator must decide his position regarding the project's compliance with the Clean Water Act. On January 10, 1989, the Corps of Engineers issued its "notice of notice of intent to issue the permit." By this action the Corps informed the parties that the Corps believes the project, with the permit conditions set forth in the draft decision documents, is "permittable," i.e., the project complies with the CWA Section 404(b)(1) Guidelines and other applicable requirements.

The EPA Region VIII office is now in the process of discussing with both the Corps and the applicant the adequacy of these proposed permit conditions. These discussions will result in EPA recommendations for changes in or additions to the conditions, and sometime in February the Regional Office will decide whether to approve the project with conditions, elevate the decision to higher levels in EPA and the Corps, or "veto" the project. If the Corps of Engineers formally approves the permit, and if EPA's concerns remain unresolved, the Regional Administrator may initiate a Section 404(c) action to prohibit or restrict the discharge, if he determines the statutory criteria may be met. Initiation of a Section 404(c) action is completely within the discretion of the Regional Administrator. If the Regional Administrator chooses to recommend actions pursuant to Section 404(c) of the Clean Water Act, EPA Headquarters will then become formally involved.

I appreciate the interest of the Committee in the Section 404 program, and particularly in EPA's role in that program. Although, as indicated above, the next decisions in EPA's review of the Two Forks project will be made at the Region, I will ensure that the Committee is kept informed as we review this project, and as decisions are made.

Mr. Reilly, our nation is struggling to figure out what to do with the millions of tons of municipal waste that we produce each year. Virtually all oberservers consider recycling to be an essential part of an effective integrated waste policy. However, many recyclers say that they are having trouble dealing with toxic substances in ordinary consumer durable goods such as appliances, automobiles and batteries. These toxics, which have often, it is said, been used for cosmetic or other non-esential reasons, are claimed to be causing increasingly unmanageable environmental risks and liabilities for recyclers. Recyclers say that they may not be able to continue handling many of these items.

Q.a. Would you agree that a national recycling policy, and/or pollution prevention policy, should require or stimulate manufacturers to design and produce products for safe and efficient recycling, without unnecessary risks due to toxic components?

A. I fully agree that products should be designed so that they can be recycled as safely as possible. Where toxic substances are unnecessary and could be problematic, they should not be in products. I would note, however, that toxic substances are sometimes essential components in some products. Where no low impact substitutes exist, as in the case of lead-acid car batteries, we should encourage the safe recycling of such products. In cases where substitutes exist, we should encourage substitution as well as assure that recycling does not present any undue risks.

Q.b. Would you agree that without a so-called "design for recycling" approach, society risks the possibility of losing waste reduction and other benefits of recycling consumer durables?

A. I agree that "designing for recycling" can be an important element in obtaining the benefits of recycling. Removing unnecessary toxics also will make landfilling and incineration safer for products which cannot feasibly be recycled.

Q.c. If we could implement a "design for recycling" approach, so that all new products are safely recyclable, in what ways do you think we may be able to insure best the recycling of the vast inventory of durable goods already in use, many of which continue to pose threats to recyclers as they come out of service?

A. I do not know whether there is a vast inventory of durable goods which pose a threat to recyclers. The Agency is currently working through problems confronting recyclers of a wide variety of durable goods, such as automobiles, lead acid batteries, used applicances, including issues involving used oil, and PCB's.

As you, yourself, stated many years ago, a significant proportion of our water pollution problems emanate from non point sources of pollution - both urban and agricultural.

EPA recently issued a rule that requires waters polluted by toxic substances to be cleaned up only if those waters were polluted by point sources (factories and sewage treatment plants) and not if they were also polluted by toxic runoff.

Q. Does this make sense? Will you commit to reviewing this rule with a view to closing such a loophole if you agree that it, indeed, exists?

A. The Agency is acutely aware of the scope of nonpoint source problems, and remains committed to addressing nonpoint sources as expeditiously as possible. EPA recently published proposed regulations that implement section 304(1) of the Clean Water (Section 308(a) of the Water Quality Act of 1987). Section 304(1) requires States to develop lists of waters impaired by both point and nonpoint sources of pollution, identify point sources and amounts of pollutants that cause toxic impacts, and develop individual control strategies for each such point source. These individual control strategies are designed to ensure that applicable water quality standards are achieved no later than June 1992.

The effect of section 304(1) is to focus national surface water quality protection programs immediately on known water quality problems due entirely or substantially to point source discharges of section 307(a) toxic pollutants. However, the requirements of section 304(1F are only one component of EPA's ongoing national program for toxics control. Under the national program, EPA is asking that all known toxics problems (due to point and nonpoint sources) be controlled as soon as possible. States must include, on the list prepared under section 304(1)(1)(A)(ii), waterbodies adversely affected by nonpoint sources. Such waters must be addressed under EPA's existing water quality management program (described in 40 C.F.R. Part 130) and under the nonpoint source management program (described in section 319 of the CWA).

Although the individual control strategies prepared under section 304(1) focus on point sources of toxic pollutants, the Agency is very concerned about controlling nonpoint sources of pollution and I look forward to working with Congress in developing the most effective methods for addressing this problem.

b. EPA has also recently proposed a rule that would require polluted urban runoff to be controlled only by "incorporated cities and towns". So runoff from Washington, D.C. will be controlled, but not runoff from major growth areas such as Montgomery County, Maryland and Fairfax County, Virginia.

QUESTION: Does this make sense? Will you commit to reviewing this rule with a view to closing such a loophole if you agree that it, indeed, exist?

ANSWER: Section 402(p) of the Clean Water Act requires that EPA promulgate National Pollutant Discharge Elimination System (NPDES) permit application requirements for discharges from large municipal separate storm sewer systems (systems serving a population of 250,000 or more) by February 4, 1989 and discharge from medium municipal separate storm sewer systems (systems serving a population of 100,000 or more, but less than 250,000) by February 4, 1991.

The term "municipal separate storm sewer system" is not defined by the CWA. On December 7, 1988,(53 FR 49416) EPA published a notice of proposed rulemaking (NPRM) that requested comments on a wide range of options for establishing regulatory definitions for large and medium municipal separate storm sewer systems, including focusing the definitions on separate storm sewers owned or operated by cities, towns or counties with the appropriate population or separate storm sewers within urbanized areas defined by the Bureau of Census.

The NPRM explained that a number of factors will be considered in developing regulatory definitions, including: inter-jurisdiction complexities associated with municipal governments; the relative newness of local storm water programs that focus on water quality; and the geographic basis necessary to provide flexibility to target cost-effective controls on areas where water quality impacts associated with municipal separate storm sewers are the greatest. The NPRM explained that, at the time of the notice, EPA preferred to focus the definitions of large and medium municipal system on municipal storm sewers owned or operated by incorporated cities or towns with the appropriate population along with other interrelated discharges that are designated on a case-by-case basis by the NPDES Director. Based on the 1980 Census data, 57 incorporated cities have populations greater than 250,000 and 114 incorporated cities have populations between 100,000 and 250,000.

The comment period for the NPRM will close on March 7, 1989. Based on public comments, a number of options for defining large and medium municipal separate storm sewer systems, including expanding the definition favored in the NPRM to address municipal separate storm sewers owned or operated by counties such as Montgomery County and Fairfax County with large populations in unincorporated, urbanized areas, will be evaluated. The Agency is committed to developing an approach that will provide a reasonable and realistic basis for the initial phases of the NPDES storm water program.

Q. Are global environmental issues (global warming, ozone depletion, etc.) the only international issues with which you will concern yourself? Please list and describe any other issues you deem important.

A. No. I intend to be actively involved in the full range of international environmental issues before the United States and the EPA.

Closest to home, transborder cooperation with Canada and Mexico has very high priority. We share common concerns and cooperate on many issues. Even on those matters where there has been some disagreement, there exists a strong commitment and history of working together toward mutually agreeable solutions. Air and water pollution flows both ways across our borders, and I plan to ensure that existing cooperation is strengthened. In this regard, we have strong agreements with Canada and Mexico respectively, on Great Lakes Water Quality and on border environmental issues. Acid rain and Canada will of course be one of my top bilateral priorities. I would anticipate meeting with my counterparts at an early opportunity.

Further from home, EPA has very strong bilateral programs with a number of countries, particularly Japan, the Netherlands, and the Federal Republic of Germany and the Soviet Union. The EPA Administrator is the U.S. Co-Chairman of the US-USSR Joint Committee on Environmental Protection. The Agency plays a leading role in work with the Soviet Union and is increasingly involved in work with East European countries.

EPA's domestic programs derive significant benefit from bilateral exchanges with most industrialized nations and with nations which are in advanced stages of development. Through cooperation and coordination, we gain the benefits of foreign scientific expertise, research results, and managerial experience which can be adapted for use in our system. We can also effect significant cost savings through shared research and development activities. EPA works as well with developing nations to ensure that they gain the economic and environmental benefits of integrating appropriate environmental considerations into their economic development.

With respect to environmental problems in developing countries, the Agency will play a strong role in:

- the direction and review of development activities of the multilateral development banks and bilateral donor agencies, including U.S. AID;

- providing technical assistance and infrastructure development opportunities through international organizations to the poorer of the third world countries and through direct bilateral programs with the more rapidly industrializing nations; and,

- finding meaningful solutions, in cooperation with the international community, to problems created by trade in chemicals and hazardous wastes.

In addition to these bilateral and developing country programs, I know that EPA is actively involved in, and benefits from, the work of leading multilateral organizations dealing with environmental problems. These organizations provide valuable arenas for information exchange, joint research and the development of cooperative relationships necessary to resolve increasingly complex local and regional, as well as global, environmental problems.

A major effort involves work within the Organization for Economic Cooperation and Development's (OECD's) Environment Committee where 24 western industrialized countries, including Europe, the U.S., Canada, Japan, Australia and New Zealand, can seek to harmonize environmental policies to improve environmental protection while mindful of potential impacts on trade and economic growth.

The UN's Economic Commission for Europe (ECE) provides an opportunity to meet with representatives of eastern and western European countries and Canada. The U.S. recently helped to give new impetus to the ECE Convention on Long-Range Transboundary Air Pollution as a signatory to the NO_x protocol. I expect that we will increasingly turn to the Senior Advisors on Environmental Problems (SAEP) of the ECE as we address issues such as water pollution and low- and non-waste technologies.

Our contributions to the World Health Organization (WHO) help develop an international body of information crucial to environmental protection. The Codex Alimentarius Commission and the U.N. Food and Agriculture Organization (FAO) allow us to seek broad-based support for safe pesticides use and a wholesome international food supply.

Recently, EPA has, along with other U.S. agencies, begun to take some important steps toward more active regional cooperation in the Caribbean and the South Pacific. The Caribbean Action Plan and the South Pacific Regional Environment Program present valuable frameworks for addressing mutual environmental concerns, at the scientific and policy levels, in particular coastal and marine environment protection. Whether it be land-based sources of marine pollution in the Caribbean or the effect of sea level rise on the South Pacific Islands, I believe that we have a strong interest in promoting regional awareness and commitment to regional environmental solutions.

The UN Environment Program (UNEP) allows us to bring all these interests into one room and to share and debate and, hopefully, resolve a broad range of environmental issues from biological diversity to export notification for banned chemicals to local preparedness for environmental emergencies.

Finally, Antarctic and Arctic environmental issues are becoming increasingly important and I would envision enhanced EPA involvement, including as part of U.S. participation in the Antarctic Treaty System.

I intend to continue and expand EPA's involvement in bilateral and multilateral organizations, from the technical to the policy level.

During the recent presidential campaign, then Vice President Bush said that were he elected President, he would call for a summit conference on global environmental issues shortly after his inauguration.

Question

a. Have you discuss plans for such a summit conference with President Bush and, if so, when is such a conference likely?

b. Will you keep me and my staff completely informed about the plans for a global environmental summit conference.

c. Will Congressional environmental leaders and their staff be invited to observe at such a conference?

Answer

The scope, level, and intent of the conference have not yet been decided. It will not necessarily be a Summit Conference. We will make every effort to keep you and your staff informed about plans for the conference.

Mr. Reilly, I believe that the new Administrator's commitment to environmental issues will largely depend on the role given to OMB in the environmental rulemaking process over the next four years?

Question

Have you discussed with the President the role of OMB in EPA's rulemaking process and, if so, what commitments do you have?

Answer

I have not discussed this matter with the President.

Question: Will you elevate to the President a dispute with OMB if you believe that OMB is attempting to circumvent Congressional directives, or is seeking unreasonably to delay an Agency rule?

Answer: I think that as a component of the Executive Office of the President, OMB has an important to role to play in supporting consistent regulatory policies across the government. Under Executive Order 12291, OMB has the right and the responsibility to review EPA's rules before proposal and promulgation. I am committed to working with the OMB director to establish a more predictable and reliable process for OMB's review.

At the same time, I believe that the body of law entrusted to EPA and the Executive Order clearly recognize that the EPA Administrator is the public official responsible for issuing environmental rules. So while I intend to cooperate with and benefit from OMB review, I will be guided by my own best judgment in decisions about regulatory actions.

In the extraordinary case that the two agencies could not resolve an important difference, then I would elevate the issue to the President if necessary. But I believe that we can establish the kind of relationships within the administration such that this situation is not likely to arise.

It will take many billions of dollars and many years to achieve environmental restoration at Department of Energy nuclear facilities and to ensure that these facilities operate in compliance with all applicable environmental statutes.

Q.

a. Do you believe that Federal facilities should be required to comply with the same environmental laws and meet the same environmental standards as all other facilities?

Response: Without question Federal agencies have an inherent obligation to comply with all Federal environmental statutes in the same manner and degree as all other regulated entities. It is my understanding that this position has been formally stated in the new Federal Facilities Compliance Strategy issued by EPA in November 1989. In addition, most of the environmental statutes contain explicit provisions (e.g , RCRA S.6001, CWA S.313, CAA S.118 SARA 5.120) which clearly waive the so-called "sovereign immunity" of Federal facilities and require their full compliance with all environmental standards and requirements.

b. Do you believe that the EPA should have the same authorities with respect to the enforcement of environmental laws at Federal facilities as it has with respect to the enforcement of environmental laws at all other facilities?

Responses: While EPA certainly needs to have the authority to enforce the environmental laws at Federal facilities, it appears that some questions remain as to the extent of EPA's authorities due to possible Constitutional and statutory constraints on EPA enforcement vs. Executive Branch agencies. In addition, the practical limitations posed by the Federal budget and appropriations process sometimes cannot be addressed in a judicial forum. However, for the most part the authoritrities EPA possesses and the procedures EPA has established in its Federal Facilities Compliance Strategy seem to be sufficient to ensure compliance by Federal facilities. The issuance of proposed orders and strict escalation timeframes for dispute resolution appear to provide an adequate basis for enforcement of most Federal facilities violations. This is an issue I may need to look into further.

c. Do you believe that the EPA should be required to obtain the approval of the President (through the Attorney General or another designee) prior to the imposition of enforcement sanctions against DOE? What is your opinion of the unitary executive theory in this context?

Response: Generally, I do not think it is appropriate or necessary for EPA to obtain the approval of the President or his designee prior to imposing enforcement sanctions against DOE or any other agency. I believe that there is only one such instance where EPA would be required to seek Justice Department concurrence, i.e., for issuances of unilateral administrative orders at Federal facilities under Section 106 of CERCLA pursuant to Executive Order 12580. In the case of CERCLA Section 106 orders, it is my understanding that EPA has established written protocols with the Justice Department to enable EPA to expedite the issuance of these orders at Federal facilities, including DOE, in appropriate circumstances. I do not believe the unitary executive theory would affect the imposition of most EPA enforcement mechanisms at Federal facilities but might become a relevant consideration in certain disputes among Federal agencies.

d. Do you believe that EPA has the necessary "clout" within the structure of the federal government to ensure that military production objectives for nuclear materials are adequately balanced with environmental objectives?

Response: Although EPA does not directly review other agencies' balancing of their priorities and objectives, Executive Order 12088 gives EPA a special and important responsibility for overseeing environmental compliance at Federal facilities which goes beyond that which EPA generally does for non-Federal facilities. In addition, certain of the environmental laws have increased this oversight responsibility by including specific provisions (e.g., SARA s.120), which strengthens EPA's role as an independent regulatory agency in ensuring adequate compliance and proper clean-up at Federal facilities.

Another valuable tool to help ensure Federal facilities compliance with environmental laws is the Pollution Abatement Planning Process mandated under Executive Order 12088 and implemeted via OMB Circular No. A-106. Commonly known as the "A-106 Process," this system provides EPA with a unique opportunity to review and comment on proposed Federal agency pollution abatement and clean-up projects under all EPA media programs. This analysis by EPA is then sent to OMB annually to be used in examining Federal agency proposed budgets for submission to Congress by the President each year.

e. What is your view of the EPA's role in ensuring that from here on DOE nuclear facilities will operate in compliance with environmental laws.

Response: With the recent issuance of EPA's Federal Facilities Compliance Strategy and related media-specific Federal facilities guidance, I think you will begin to see more EPA compliance monitoring and enforcement activities at Federal facilities, including DOE. I am looking forward to increased attention being given to DOE and other Federal facilities via inspections and timely enforcement actions being taken where warranted. In addition, EPA is improving its internal tracking of the compliance status of Federal facilities and will soon begin issuing quarterly reports on the numbers of inspections, violations and enforcement actions being taken by both EPA and the States at Federal facilities. This should enable EPA to have a much more accurate "yardstick" of how well Federal governmental facilities are complying compared to private industry and other facilities which EPA regulates.

In addition, EPA has been focusing particular attention in the area of hazardous waste compliance at Federal facilities and this past year created a new office just to address this important issue. In order to facilitate clean-ups at DOE and DOD facilities, EPA has successfully negotiated agreements on model language for Interagency Agreements (IAGs) for Federal agencies which have Superfund NPL sites. The EPA/DOE/DOD model language resolved significant policy issues which should help expedite the clean-up process at nuclear weapons complex facilities.

Section 1010(a) of the 1988 Endangered Species Act Amendments requires the EPA Administrator, in cooperation with the Secretary of Agriculture and the Secretary of Interior, promptly upon enactment to conduct a program to inform and educate fully persons engaged in agricultural food and fiber commodity production of any pesticide labeling program or requirements that may be imposed by the Administrator in compliance with the Endangered Species Act.

Q. What actions would you take and what resources would you provide as Administrator to ensure that this provision is implemented fully?

Response: I would continue the steps begun by my predecessor to satisfy this requirement. For the past year EPA has been working jointly with the Departments of Agriculture and Interior to develop a program that would be in compliance with the Endangered Species Act, while still being responsive to the concerns of all affected parties. One of the joint task groups of this effort is charged with developing educational information for pesticide users and procedures for public participation. As the program develops, I will ensure that sufficient resources are allocated to continue public involvement, not only through Federal Register Notices, but also through meetings with interested groups, publication of a periodic Endangered Species Update, and general distribution of information. USDA's Cooperative Extension Service and EPA's Certification and Training program are valuable vehicles for providing pesticide users with specific requirements of the program.

Section 1010(b) of the 1988 Endangered Species Act requires the EPA Administrator, jointly with the Secretary of Agriculture and the Secretary of Interior, to conduct a study to identify reasonable and prudent means available to EPA to implement the endangered species labeling program which would comply with the Endangered Species Act and which would allow persons to continue production of agricultural food and fiber commodities. The results of this study must be submitted in a report to Congress by October 7, 1989.

Q.

a. As administrator, would you personally review the status of this study to ensure that the statutory deadline is met?

Response: Yes, of course.

b. As Administrator, would you ensure that any effort to implement fully the endangered species labeling program incorporates those methods identified by the study which would comply with the Endangered Species Act and which would allow persons to continue production of agricultural food and fiber commodities?

Response: Yes, I would. Another EPA/USDA/USDI task group has already provided valuable technical assistance in developing a revised, overall approach for implementing the program, while a third task group is working on methods to assess economic impacts of and alternatives to any use limitations that may occur as the details of the program are worked out. I would expect that if we all work together, we can achieve both the goals of protecting endangered and threatened species and ensuring that American food and fiber production remains efficient and competitive.

QUESTION

As you may expect, many Committee members, including myself, are concerned about several policies articulated in the last Reagan Budget for EPA.

While you are not to be held accountable for those proposals, can you give us some idea of when and in what form we will receive an amended EPA budget for the coming fiscal year?

ANSWER

The Environmental Protection Agency as well as the new Administration are reviewing the 1990 Reagan budget to determine what modifications or amendments should be made to it due the impact of legislation which was enacted after the budget was formulated and to address the emerging priorities of the new Administration. I'm sure that there will be forthcoming for your consideration modifications to the priorities of the Reagan budget.

Q. With regard to federal facilities, will you request that Attorney General Thornburgh review former Attorney General Meese's position that EPA cannot bring legal actions against federal facilities?

A. I understand that the Justice Department has constitutional reservations about EPA bringing legal actions against federal facilities. If confirmed, this is an issue that I will examine and pursue as necessary.

Q. Would you support clean coal technology funding for lignite?

Answer: There are several technologies currently being funded or being negotiated in the DOE Clean Coal Technology Program (Rounds 1 and 2) that could burn lignite: Atmospheric Fluidized Bed, Pressurized Fluidized Bed, and Integrated Gasification Combined Cycle. If sound technical proposals to demonstrate promising control technologies for lignite were put forward in the upcoming Round 3 solicitation, I would encourage DOE to provide funding for them.

It has been suggested that you are considered elevating EPA's Office of International Activities to an office headed by an Assistant Administrator.

Question

a. Are you considering elevating the Office of International Activities to be an office headed by an Assistant Administrator?

b. What criteria are you using upon which to base such a decision?

Answer

Because I consider international activities to be a major function of the agency, and one that will continue to grow in importance, I have considered creating an Assistant Administrator for International Activities and will reach a decision shortly, based on the general management structure of the agency.

Q.

a. Do you think it appropriate or not that you and your staff counsel with Members of the Senate and House and their appropriate staffs at the earliest possible stage in the development of environmental policies and rules?

b. Under what circumstances would it not be appropriate to consult with Members of the House and Senate and their appropriate staffs?

A.

a. I or my representative will respond to any Congressional requests related to the development of environmental policies and rules.

b. In terms of the development of environmental policies and rules, I cannot think of a circumstance where responding to a Congressional request would not be appropriate. However, if such a circumstance should arise, I will be forthcoming in explaining the reasons.

SENATOR QUENTIN BURDICK

Q. A serious compliance problem is emerging as state and local responsibilities increase under environmental statutes and regulations. Larger cities and larger regulated industries are much more likely to have the technical and financial resources to meet new requirements than smaller communities and businesses.

(a) Through your experience in the environmental field, do you agree that this is a problem?

(b) What forms of assistance do you think EPA should provide to help small businesses and communities?

A. (a) This is definitely a problem of increasing seriousness. EPA and the States through special task forces and the State/EPA Operating Committee has focused on these problems over the past two years. Those efforts have been directed to: better definition of the federal and state roles to eliminate duplication of efforts in enforcement actions; an expansion of technical assistance and technology transfer programs to both States and municipalities, and improved information flow and availability.

A. (b) Assistance to help small businesses and communities should be provided at several levels. First, the Agency must fully implement the Regulatory Flexibility Act which requires Federal Agencies to consider small entities, i.e., small businesses, governments and nonprofit organizations, when developing regulations in order to minimize their impact. The Agency has had a small business ombudsman program for the past several years which has implemented the Act and has provided access to the Agency for small businesses for information and technical assistance.

The Agency, in various program offices has developed special programs to assist small communities. However, last fall, the Administrator directed that a more focused effort was needed for small communities within the Agency. The program was developed and a Small Communities program was approved January 13. It is now being implemented. The Small Communities Coordinator will work with other Agency programs to:

(1) implement the Regulatory Flexibility act to ensure adequate consideration of, and consultation with, small communities in the development of EPA regulations;

(2) Establish an internal task force to coordinate all program offices whose actions, policies and regulations will or could impact small communities; (3) coordinate with regional offices;

(4) work with the agencywide technology transfer staffs to ensure that technical assistance needs of small communities are addressed and that effective transfer and information outreach systems are instituted.

The Small Communities coordinator will also work with external organizations which represent small governments to improve information flow and develop better understanding of Agency actions, regulations, and technical assistance opportunities.

As we have seen in the Souris project, and from other examples, EPA's regional offices often act on their own on matters which may, in fact, rightfully be categorized as national policy, without first consulting and coordinating their efforts with the Administrator or anyone else at headquarters. We have recently been apprised of a situation where one region has been imploring other regions to act on a matter which may more appropriately and efficiently be handled by headquarters.

Question A: Do you deem it important that the Administrator and his staff act for the Administration and the agency as national environmental policy spokespersons, unless the Administrator delegates such authority in specific instances?

Answer: Yes. It is the primary job of the Administrator and his staff to be the spokespersons and determiners of national environmental policy.

Question B: How will you insure that, if you are confirmed by the Senate, you are the ultimate arbiter in the determination and coordination of national policies and initiatives?

Answer: Providing national policy direction and establishing new initiatives directed at major environmental problems is the responsibility of the Administrator. The agency has management and communications systems in place that are designed to both reinforce national policy and provide an early warning system for problems that may arise in implementing national policy.

National policies and initiatives are reviewed annually with headquarters and regional managers as part of the Agency budget process. Implementation is directed through national guidance and monitored through national tracking systems. The Administrator is also kept apprised of issues and problems, as they arise, through a variety of other communication mechanisms. In addition, I plan to meet regularly with the Regional Administrators, and on-site regional reviews will be an important part of my management of the agency.

From the outset, I expect to have a clear understanding with regional administrators and their senior managers in terms of their essential role in implementing national policy. I will be the final arbiter when any disagreements arise between national program managers and regional managers.

Question C: How will you deal with Regional Administrators or other regional staff who may infringe upon the headquarters role as EPA national program office, either through acts of commission or omission?

Answer: While EPA has centralized management systems in place, it is nevertheless a decentralized agency. Systems are only as good as the people who participate in them. I will impress upon my regional administrators the importance of their role in carrying out national policies and programs. In addition, I will impress upon them the importance of being loyal team players. I also believe that regional managers have an important advisory role in helping me shape national policies that can be successfully carried out on a national scale while also adapting to environmental problems that are unique to specific geographic areas.

Given the number, breadth and often the urgency of decisions that the agency faces, I recognize that it is always possible that some decisions may move forward without my full knowledge. I assure you that this will not happen from a lack of top management attention. Given that possibility, it is my intention to maintain effective management and communication systems to prevent regions from getting out ahead of national policy decisions.

QUESTIONS ON "CPT" FROM SENATOR BURDICK

Blackbirds cause extraordinary losses to sunflower growers in North Dakota. Estimates of these losses range as high as $25 million per year. In November and December 1987 the U. S. Department of Agriculture Animal Damage Control (ADC) Program submitted an application to field test CPT (3-chloro-p-toluilure, 3-chloro-4 methylburzenamine, DRC-1347) a potential avian toxicant in North Dakota and the mid-south under an experimental use permit (EUP).

In response, EPA required registration as a condition for an EUP. In October 1988, ADC submitted a request for a determination to EPA requesting an exemption from EUP requirements until CPT was determined to have pesticidal value. An exemption was requested because registration costs are estimated as high as $6.5 million and the estimated 5-year registration period would pose undue hardship for sunflower producers. Ironically, an EUP is apparently not normally required for pilot tests. Apparently, there is a growing sense of desperation and risk of environmental damage from use of illegal chemicals as producers take matters into their own hands.

It is my understanding that EPA has agreed to an exemption for use of CPT in North Carolina. However, the Agency appears to be insisting on an EUP for North Dakota.

QUESTIONS

a. How would you propose to resolve this problem in a timely fashion as it relates to North Dakota?

b. What do you think would be acceptable blackbird roost-sites in North Dakota?

c. Would you favor flexibility in the roost-site requirements to perform field tests in North Dakota this year?

ANSWERS

a. While I am not familiar with the details of this issue, I understand that the Agency has recently made the determination that it would not be appropriate to waive the requirements for an Experimental Use Permit for the field testing which the USDA had proposed for sites in North Dakota. As I understand it, CPT is a chemical in the very early stages of testing as a potential pesticide, and the Agency has very little data on the fate of this compound in the environment or its potential effects on various species of birds and other wildlife that might be exposed to it during testing. Therefore, in order to allow some small scale preliminary field testing, the Agency needed some assurance that non-target species would not likely be harmed. Apparently, the sites proposed for testing in North Dakota involve so-called "prairie potholes" which are aquatic sites inhabited or visited by numerous bird species, including migratory birds. In the absence of adequate data the Agency felt that testing at these sites offers no reasonable assurance that non-target species will not be harmed. I think the most timely solution will be reached by having the USDA field tests proceed at the small non-aquatic sites in the mid-south, and then, if CPT appears to be useful, to develop the additional data that are needed to support an EUP that will allow an expanded field testing program.

b. and c. For both of these questions, I think the issue right now is what sites are acceptable for field-testing, given the current state of very limited knowledge about this chemical, and I think the Agency has already made a reasonable call on that. I am not aware of whether or not there are other sites in North Dakota where CPT might be tested without raising the concerns discussed above. If there are such sites, and USDA proposes them, EPA will certainly consider their proposals.

SENATOR CHAFEE

QUESTION

As one who is familiar with the problems of wetland losses throughout the country, I know you are eagerly looking forward to using your veto authority under Section 404(c) of the Clean Water Act.

Needless to say, you will come under intense pressure whenever you propose to use that authority. Your predecessor set a good example when he used it to block a project in Sweedens Swamp in my part of the world. A number of people have suggested that you should take a similar stand with regards to the Two Forks project in Colorado. I am not familiar with the merits of that project but I would ask you to look at it and see if your personal involvement is called for.

Will you do that?

RESPONSE TO QUESTION

Section 404(c) of the Clean Water Act is certainly an important aspect of EPA's regulatory wetlands protection responsibilities. As evidenced by increased Agency activities in the recent past, Section 404(c) actions have become accepted as a regulatory tool which is available when EPA has determined that a given discharge into waters of the United States will have an unacceptable impact on the aquatic environment. I will continue to provide support for Section 404(c)actions where warranted.

With regard to issues associated with the Two Forks project, I am well aware of the intense interest associated with the proposal. As with any EPA action on a §404 permit however, the Regional EPA Office has primary Agency responsibility for permit review for the Two Forks project. Under the current regulatory framework for Section 404, EPA decisions regarding formal elevation of a project under Section 404(c) must be initiated by the Regional Administrator. At present, the Section 404 permit process for the Two Forks proposal has not yet reached the stage where the Regional Administrator must decide his position regarding the project's compliance with the Clean Water Act. On January 10, 1989, the Corps of Engineers issued its "notice of notice of intent to issue the permit." By this action the Corps informed the parties that the Corps believes the project, with the permit conditions set forth in the draft decision documents, is "permittable," i.e., the project complies with the CWA Section 404(b)(1) Guidelines and other applicable requirements. The EPA Region VIII office is now in the process of discussing with both the Corps and the applicant the adequacy of these proposed permit conditions. These discussions will result in EPA recommendations for changes in or additions to the conditions, and sometime in February the Regional Office will decide whether to approve the project with conditions, elevate the decision to higher levels in EPA and the Corps, or veto the project. If the Corps of Engineers formally approves the permit, and if EPA's concerns remain unresolved, the Regional Administrator may initiate a Section 404(c) action to prohibit or restrict the discharge, if he determines the statutory criteria may be met. Initiation of a Section 404(c) action is completely within the discretion of the Regional Administrator. If the Regional Administrator chooses to recommend actions pursuant to Section 404(c) of the Clean Water Act, EPA Headquarters will then become formally involved. In the course of normal transition conversations with the Regional Administrator for Region VIII, I fully expect to discuss EPA's position on the Two Forks proposal.

Question:

The success of the Montreal Protocol on substances that are destroying the ozone layer was due, in large part, to the personal efforts of your predecessor - Lee Thomas. He took the first step and left the equally difficult but much more difficult second step for you. It is now well established that the Protocol is not tough enough and that a rapid phase-out of CFCs and other ozone-depleting chemicals, such as halons, is necessary.

Do you agree with this assessment and will you see to it that the U.S. proposes a complete phase-out at the April meeting of the Parties in Helsinki?

Response:

I welcome the opportunity to build on Lee Thomas's efforts on the Montreal Protocol. The widespread international acceptance of this agreement, along with its broad support both from industry and the environmental community in the United States, is an excellent indication of exactly how successful the Protocol has been.

As you suggest, the next stage of implementing the Protocol will be critical if we are to ensure the future integrity of the ozone layer. We have actively been working with the United Nations Environment Program (UNEP) to expedite the assessment process set forth in the Protocol. According to the current UNEP schedule, the assessments should be completed by August of this year and the Parties should vote on changes to the control requirements at a meeting in April 1990.

As in the past, we intend to play a strong leadership role throughout the negotiations leading up to a revision of the Protocol. While I cannot yet give you details of the United States position, I can state that the science clearly warrants a phase-out of CFCs and halons as soon as is practical based on the availability of alternatives. I can also assure that we will make every effort to announce a U.S. position at the earliest possible date.

Question:

Similarly, notwithstanding the scientific uncertainty that clouds this and so many of the issues facing EPA and Congress, are you prepared to advocate a U.S. policy of reducing carbon dioxide and other greenhouse gas emissions?

Answer:

As you recognize, dealing with global climate change may well be the most complex issue I will face at EPA. The process now underway with the Intergovernmental Panel on Climate Change is a good beginning because clearly any effective solution must be international in scope. The United States will chair one of the working groups and actively participate in this process.

It is also worth noting that the reductions in chlorofluorocarbons (CFCs) under the Montreal Protocol represent a significant step to protecting the ozone layer, but also reduce global warming. CFCs are a powerful greenhouse gas and account for about 15-20 percent of the projected warming.

We will also be working to developing low cost, technological alternatives to the other greenhouse gases particularly carbon dioxide and methane. Efforts to reduce energy consumption are a key component of this activity. For example, as U.S. industry works to develop new technologies to replace CFCs, we will emphasize the need to move in the direction of improved energy efficiency. Similarly, in other environemntal programs, current activities can be directed toward reducing greenhouse gas emissions while protecting the public from air pollution.

Question: What specific steps will you and the Administration as a whole be taking in the short term to help deal with global climate change?

ANSWER: EPA intends to play a leadership role within the U.S. government to guide the identification and analysis of potential policy options for dealing with global climate change. More specifically,

1) we will actively support the work of the Intergovernmental Panel on Climate Change and contribute to the deliberations of all three working groups. These are theresponse strategies group, which the U.S. chairs, and the two other groups dealing with scientific and potential impacts assessments;

2) the EPA is in the process of completing a report, undertaken at Congress's request, concerning Policy Options for Stabilizing Global Climate. We expect the report to go out for peer review in the near future. This report examines the options that the world has for dealing with the greenhouse effect; any overall solution will require cooperation of many countries;

3) we will expand our research efforts and policy studies to improve our understanding of the impacts of climate change on ecological systems and other natural resources. We will also develop a more accurate data base on global emissions of greenhouse gases.

Question:

For example, the decision on CAFE mileage standards for the 1990 fleet is pending at DOT. Will EPA argue against the proposal to relax CAFE standards?

Response:

In November 1988 EPA submitted comments to DOT concerning its proposed relaxation of the 1990 model year Corporate Average Fuel Economy (CAFE) standard for passenger cars. We stated that while we agree that one model year will not have a significant impact on global warming, we are concerned that DOT's proposal to relax the standard is directionally wrong. In fact, continued improvement of vehicle fuel efficiency is an important component of our global warming strategy. In working with DOT on these issues, I intend to oppose proposals that would relax CAFE standards.

I would like to ask you a few questions about the law that is at the top of the Committee's legislative agenda, the Clean Air Act.

Question

First, there are reports that a debate is underway in the Administration over whether to propose Clean Air Act legislation to Congress. Can you tell us whether you expect the Administration to propose such legislation and if so, what do you anticipate will be the timetable?

Answer

As I told the committee, the Administration will propose Clean Air Act amendments to the Congress within the next few weeks.

Question

Let me raise a Clean Air Act issue that is of particular interest and importance to States in the Northeast: several States in that region, including Rhode Island, have proposed to reduce the volatility of gasoline that is sold within their borders. By doing this they will be able to reduce ozone levels in the region this summer and for the future.

EPA is in the process of issuing regulations to require reductions in gasoline volatility across the nation. This is an important first step for the many areas that suffer high ozone levels.

The problem is that the volatility level the Agency will require is not as stringent as that sought by the Northeastern States. And action by the Agency preempts State action until a lengthy rulemaking proceeding is completed.

I am looking for assurances from you that, if the Agency does issue its regulation, you will do everything permitted by law to see that the State proposals are processed in time for them to become effective this summer.

Answer

I am familiar with this situation and, if EPA does issue its volatility regulation, I will process the relevant State SIP revisions as rapidly as possible.

Question: At our request, EPA has been doing two important studies, one on the effects of climate change and one on options to reduce greenhouse gases. A draft of the effects report has already been released and it is a good report. The second report on options, known as the stabilization report, is a larger task but, but in many ways, much more important. It is now almost a year late and it would be helpful if you would check on it and see if you can't get it to us as quickly as possible. Will you do that?

Answer: Yes. The draft report is presently in its final stage and should be distributed for peer review in a few weeks.

Many of us believe that NEPA (the National Environmental Policy Act) already requires federal agencies to consider the greenhouse effect during the EIS process. For this reason, we were extremely disturbed to see the Reagan Administration, in one of its final acts, block a new CEQ directive on this subject.

Question

Will you, as the President's chief environmental spokesperson, work to reverse that decision and revive the directive?

Answer

My understanding is that the CEQ directive was issued without much consultation or coordination with other federal agencies. I can assure you that in EPA's review of impact statements under section 309 we will consider any direct effects that the action might have on the greenhouse effect or vice-versa.

Over the past several years, the Executive Branch has had difficulty dealing with international environmental issues such as the greenhouse effect and destruction of the ozone layer, in part, because of a leadership vacuum. Every agency wants to be in charge -- some to help move the process forward, others to slow it down.

Question

How do you view this problem of leadership and how do you plan to deal with it? Will you lead these efforts personally? Do you plan to elevate the office of international activities?

Answer

I agree that it is important for there to be strong leadership in dealing with international environmental efforts, and I plan to be quite active in this area. We are giving serious consideration to elevating the Office of International Activities, including elevation of the head of the office to Assistant Administrator status.

Question: The transition from the construction grants program to a revolving fund and then a total phaseout of the Federal role is causing some problems for the States. Under the construction grants program, States were allowed to use 4 percent, I believe, of the grant to run their State water program. It was a set aside for that purpose. When construction grants were $2.4 billion, that was $96 million a year. With grants down to $400 million in the 1990 budget, States have lost $80 million. And we have not been very successful at appropriating dollars for the new initiatives in the 1987 reauthorization. The Reagan budget does expand the grants available under Section 106 and that can partly offset the loss of the construction grants set aside. But not completely. Are there ways that States can replace these revenues with other sources of funding -- permit fees or the like? Is it possible for the Federal Government to assist the States in finding new sources of funds? Have you looked at this problem?

Answer: The Office of Water began conducting a State Funding Study in 1988 to examine the anticipated shortfall in resources due to the changes of the construction grants program and new requirements laid on the States by the new amendments to the Clean Water Act and the Safe Drinking Water Acts. While there is no one solution to fill the funding gap, a variety of creative solutions that must be employed are coming from all constituencies, including Federal, State and local Governments as well as the private sector.

To help States close the financial gap, the State Funding Study is investigating various ways to support and stimulate new State efforts to increase their financial resources for water programs through the use of supplemental financing mechanisms.

The States themselves are pioneering these new funding sources, which include new or increased fees for States services, dedicated product taxes, revenues from fines and penalties, innovative fiscal management of revenues through special water program funds, and creative ideas like income tax checkoffs. We are coordinating a national workshop in March to help stimulate and share such innovations.

I recognize fully that strong State water programs are fundamental to achieving the Clean Water Act mandates. In fact, the 1987 amendments greatly expanded the work of the States. There is a need for continuing Federal grant support, and EPA is examining criteria for Federal grant assistance to States as part of the Study. A fifteen-member Task Force of high-level State and Regional EPA staff and EPA office directors has been formed to help explore both the supplemental financing and the Federal funding issues. I look forward to receiving the Study report in March, and will share the report and its recommendations with the Congress.

Building

Q. ONE OF THE MATTERS THIS COMMITTEE WORKED ON FOR A TIME LAST YEAR WAS THE NEW EPA BUILDING. THERE WAS CONSIDERABLE DISCUSSION ABOUT LOCATION. HAVE YOU HAD A CHANCE TO REVIEW THE STATUS OF THE BUILDING? CAN YOU GIVE US AN UPDATE ON THE STATE OF THE DISCUSSION ON LOCATION AND YOUR OWN VIEWS ABOUT THAT? IS THERE ANY FURTHER NEED FOR THE CONGRESS TO INVOLVE ITSELF IN THIS QUESTION?

A. The new EPA Headquarters is an issue in which I am most interested. I appreciate the Committee's interest in this matter and the early support that the Committee has given the Agency.

Regarding the issue of location, I do understand that EPA has requested that the new Headquarters remain in Washington, D.C., and I support that decision for several reasons. First, the national Headquarters of a regulatory agency needs to be near Congress, OMB and other federal agencies with which it interacts. Second, a location within Washington, D.C. is compatible with the need to be accessible to environmental and conservation groups and the general public. A third reason is to minimize the disruption to employees. I understand that approximately 50% of EPA employees live within a ten mile radius of the city's center. The vast majority of this group being lower graded employees who could least afford to move.

I know that there has been some discussion as to whether to consider both public and private land options within Washington, D.C. I would hope that preliminary considerations not be restrictive in this regard, so as to locate the new EPA Headquarters to the best advantage of EPA personnel and the American taxpayer.

As regards the overall project, I see this as a large task and a real opportunity to finally acquire for EPA, a quality, consolidated Headquarters facility. It is my understanding that EPA requires up to 1.4 million square feet of occupiable space. I was most pleased to learn that Congress has authorized the lease/purchase of an EPA facility of that size through the House Public Works and Senate Environment and Public Works Committees.

I am concerned, however, that inadequate funding has been earmarked in the GSA budget to acquire a building for EPA. It is my understanding that GSA is proposing to purchase a building for a total cost of $226 million. My early discussions with EPA managers indicate that this is $100 million short of what will be required to build a headquarters of adequate size and quality. I plan to receive more in-depth briefings soon to better understand the nature and depth of the funding issue. In any case, the Congress will have to involve itself in both the authorization and appropriation aspect of the project and I plan to work closely with you to see that EPA gets an appropriate national Headquarters.

Q.

1. Mr. Reilly, can you tell us what importance do you attach to environmental cooperation between the United States and the Soviet Union?

2. The Environmental Protection Agency has responsibility for coordinating activities under the US-USSR Agreement on Cooperation in the Field of Environmental Protection. The agreement has been in existence since it was signed in 1972 by President Nixon and the President of the Soviet Union. Are you aware of this agreement, and if so, would you describe, either now or for the record, what you believe to be its value and potential?

A.

I attach great importance, and a new degree of urgency, to environmental cooperation with the USSR. As you mentioned, our formal environmental relations date back to the US-USSR Agreement of 1972, which has been in effect without interruption since signature by President Nixon and the Soviet President Podgorniy. The Agreement is a legal instrument of elegant simplicity and enormous potential. Its objective of encouraging professional contacts in eleven major areas of environmental concern has been well served and remains as valid today as it was over a decade-and-a-half ago. EPA has been the Executive Agency of the Agreement on the US side for most of its history. Since the President has normally appointed the EPA Administrator as the US Co-Chairman of the Joint Committee, which oversees the Agreement, we enjoy direct access to Soviet counterpart officials. Directly or indirectly, the Agreement now involves about fourteen agencies and a dozen universities and private-sector entities.

To pick recent examples of the value of this particular Agreement, I certainly would cite the nearly completed negotiations for responding to marine environmental emergencies in the Bering and Chukchi Seas. Revitalized interest in Arctic cooperation is an emerging priority for both countries. The latest concerns about global climate change and depletion of the ozone layer are also being addressed under the Agreement.

Cooperation between US and Soviet atmospheric scientists under the Environmental Agreement is also credited with contributing to Soviet endorsement of the Montreal Protocol by providing a channel to exchange and independently verify the evidence of dangerous ozone-layer depletion. This achievement would have been much slower had it not been for the long process of building mutual confidence and bridging political differences that took place under the Agreement. In that instance, of course, the value of the Agreement went far beyond the benefits to the US and the USSR. This also says much about the Agreement's potential, and about the importance of international scientific cooperation overall.

Q.

3. For the record, would you provide us with the level of of resources that you believe are needed by EPA to conduct the agreement effectively?

A.

3. As Administrator of EPA, one of my first priorities is to examine the EPA budget closely in order to determine how the resources are distributed within the Agency, especially in areas that impact international affairs. After examining the budget, I will have a better sense of the specific resources needed to implement the Agreement. My understanding is that funds for the Agreement now come from a multitude of sources, including various Agency programs and other Federal Agencies. Funds are currently provided on an as-needed basis through these various sources. I will ensure that sufficient funds are provided for an effective and efficient program to implement the Environmental Agreement.

Question:

> Last year there was a spill of oil at an Ashland terminal near Pittsburgh. The response to the spill was conducted under section 311 of the Clean Water Act. As a result of the spill, a task force of Agency personnel reviewed the regulations for 311 and suggested a series of changes. A proposal to change the regulations has been prepared and is apparently ready to go through internal review. But now there is some suggestion that changes should be subject to a regulatory negotiation. You would invite in all of the interests and redo the work that has already been done by the task force. Regulatory negotiation can be helpful when a rule is likely to be very controversial or when you're breaking new ground. But that's not the case here. In this case a negotiation would only serve to delay action. In the interest of responding to the Pittsburgh spill in a timely way, I would just urge you to take this particular rulemaking to the Federal Register and not go through the regulatory negotiation process.

Answer:

The revisions to the oil spill regulations are likely to have a major cost impact on the regulated community, and numerous public comments are expected; therefore, EPA explored the possible use of regulatory negotiation to determine if the regulatory negotiation process could help to reduce objections to the revised regulations.

Following a contract analysis conducted for EPA by the Conservation Foundation, the Agency has determined that interest in the rulemaking is not sufficient to proceed with the regulatory negotiation process; consequently, the standard rulemaking approach will be followed. This decision was made on December 20, 1988.

The proposed rulemaking package is nearly ready to undergo complete internal Agency review, and EPA expects to publish a notice of proposed rulemaking in late summer, 1989.

Question:

Late last year EPA proposed new regulations for the Superfund program. Those regulations are called the National Contingency Plan (NCP) and they implement the 1986 amendments to Superfund. It's a very lengthy regulation with many controversial provisions. And it is already several months late. How will you proceed on the NCP? Are you going to pull it back and reconsider some of the policies? Or are you going to press ahead with the rule as it was proposed?

Answer:

It is important that the revisions to the National Contingency Plan, as the master regulation for the Superfund program, be issued as a final regulation as quickly as possible. I expect that, as drafted, the proposed rule contains a sufficient range of options to allow me to select the options which I determin are appropriate without the need for further proposals. It is my intention to press forward diligently with this regulation.

Question:

One of the most controversial items in this proposed National Contingency Plan is a policy to defer Superfund cleanups at sites that might be handled under some other law. If it is an operating hazardous waste facility, Superfund would defer to RCRA. If it is a pesticides release, Superfund would defer to FIFRA. And in some cases it is even suggested that Superfund might defer to State solid waste management programs. I guess the theory here is that Superfund will save resources by passing some cleanups off to these other programs. But there really aren't any resources in these other programs. RCRA is not in better shape than Superfund. There isn't any cleanup authority at all under FIFRA. And the State solid waste management plans certainly don't have enforcement authorities like Superfund. If wonder if you have had a chance to look at this deferral policy and whether it makes sense.

Answer:

I am aware of the controversy surrounding the expanded deferral policy as proposed in the revisions to the National Contingency Plan, although I have not yet received a detailed briefing from EPA staff. It is my intention to review this policy carefully, along with comments received on the proposed rule, during deliberations to develop the final rule.

The proposed NCP requests comment on several issues relating to deferral of sites from the National Priorities List (NPL), including whether deferred sites should be required to meet some or all of the CERCLA Section 121 Cleanup Standards. As I review the options in the proposed rule I will keep in mind your concerns that other laws may not contain authority to mandate remedial action in response to hazardous waste contamination, and may also suffer from resource constraints.

Q.

There is, of course, another way to make the Superfund resources go farther. And that is to insist that a bigger share of the load be picked up by the polluters. Last year the House Appropriations Committee cut Superfund spending to send EPA a message that enforcement against polluters was not aggressive enough. And this year I note in the budget that Superfund will only recover $80 million of the $1.7 billion it will spend. I think you need to look at the enforcement side of this program. I know that there are voluntary cleanups. But I doubt that all the responsible parties are so cooperative. Have you looked at the enforcement and cost recovery side of Superfund yet? Isn't that a better way to stretch Superfund resources than deferring to other environmental laws where cleanup authorities are doubtful?

A.

I certainly agree with a strong enforcement program. It is vital to the integrity of the Superfund Program to encourage voluntary cleanup of sites. In addition, I believe that recovery of EPA response costs should aggressively be pursued. If I become Administrator of EPA, I will seek ways to implement a strong Superfund Enforcement Program.

CLEAN WATER ACT PROGRAM PRIORITIES

Question: Over the past ten years or so the Conservation Foundation has been very active on water issues. CF took the lead on nonpoint source pollution, on ground water and most recently on wetlands protection. This Congress is not likely to work much on the Clean Water Act, as it does not require reauthorization until 1991. But as you look at the water program at EPA and reflect on the work of the Conservation Foundation in this area, what do you see as the priorities?

Answer: There is much new or unfinished business that I see the water programs needing to address; but one overriding concern that I have is that while paying attention to this new business we do not allow the progress that has been made since 1972 to slip.

Of course, I am interested in pursuing the recommendations made by the Wetlands Forum. While many of these recommendations are aimed at State and local governments and the private sector, and I hope that these parties all move swiftly and energetically to implement them, the Forum also identified many actions that federal government should take and EPA must exert a leadership role in implementing these recommendations.

A second emerging area of great concern to me is protecting our coastal and marine resources. During the last few years, the summer season has been marked by beaches strewn with medical waste and other debris, fish kills, garbage slicks, and sewage spills. But these are only symptoms of a more basic problem. The fundamental problem is that we are experiencing major degradation of living resources in our coastal areas and this decline is directly linked to the stresses, habitat changes, and pollution that come with accelerating population growth and uncontrolled development. The ocean, too, is a living resource that we need to protect and EPA must provide international leadership and technical expertise in support of world-wide efforts to protect the coastal and marine environment.

Additionally, States and local governments as well as EPA will need to direct attention to residual problems of nonpoint source pollution, particularly for the protection of wetlands, estuaries, and lakes. EPA has developed a Nonpoint Source Agenda for the Future detailing appropriate Federal, State and local roles in addressing nonpoint source pollution which I intend to study carefully and implement appropriately.

Much progress has been made in traditional, point source controls of pollution. I see, however, several areas where increasing attention is required. The control of toxic pollutants is of particular importance, including the development and implementation of new, resource-protective standard setting, permitting and monitoring approaches as needed. Problems exist in the treatment of toxic industrial discharges prior to their reaching wastewater treatment plants: too many of these pretreatment programs are not working which we need to turn around. And the impact of combined sewer overflows, especially into near coastal waters, must be addressed. Summer problems are just the visual signs that they must be dealt with, especially in those areas where recreational beaches are affected. Additionally, I see the need to work with the States in developing self-sustaining, self-revolving loan funds to provide a continuing source of support for municipal wastewater treatment as well as other environmental activities as nonpoint source control and estuarine protection.

Although not considered part of the Clean Water Act agenda, my priorities will also include developing a sound, Federal ground-water protection policy and effectively developing and implementing the new drinking water standards.

Increasingly, the financial burden for pollution control is legislatively being shifted from the Federal government to the States. One of my overriding priorities, thus, will be to look into what might be an appropriate Federal role toward assisting States financially and technically in the long term.

Question:

Let me raise a Clean Air Act issue that is of particular interest and importance to States in the Northeast: several States in that region, including Rhode Island, have proposed to reduce the volatility of gasoline that is sold within their borders. By doing this they will be able to reduce ozone levels in the region this summer and for the future.

EPA is in the process of issuing regulations to require reductions in gasoline volatility across the nation. This is an important first step for the many areas that suffer high ozone levels.

The problem is that the volatility level the Agency will require is not as stringent as that sought by the Northeastern States. And action by the Agency preempts State action until a lengthy rulemaking proceeding is completed.

I am looking for assurances from you that, if the Agency does issue its regulation, you will do everything permitted by law to see that the State proposals are processed in time for them to become effective this summer.

Response:

EPA's proposed rulemaking (August 1987) on fuel volatility involves a nationwide program to reduce in two stages the volatility of gasoline in the summer months. We currently have a final rule at OMB for the first stage reduction that would take effect this coming summer. When EPA finalizes this rule, individual states that now have or plan to have more stringent volatility requirements will be preempted under the Clean Air Act from imposing their own rules. However, the Act permits EPA to waive this preemption for a state that determines through its State Implementation Plan (SIP) that the control is necessary to achieve attainment of the air quality standards. We are working with those states (mostly in the Northeast) that are interested in obtaining such waivers to ensure expeditious review and processing of their SIP revisions as quickly as possible.

Question:

Will you work with me and other members of this Committee to develop the best possible legislation to address the serious health threat from indoor air pollutants?

Answer:

I plan to become involved early on in assessing whether indoor air pollution -- as well as other problems which may pose potentially large public health risks but which may not currently be high on the public agenda -- are being given an appropriate degree of attention. I understand that a comprehensive Report to Congress on indoor air quality required under Section 403(e) of Title IV of SARA has just been completed by EPA staff and transmitted to the Office of Management and Budget for review. I will formally transmit the report to you as soon as possible.

As I indicated in my formal statement at my confirmation hearing, I believe that indoor air pollution is a serious environmental problem. I will be happy to work with you and your Committee to ensure that legislative initiatives in indoor air deal with the threat from indoor air pollution.

Q. As EPA Administrator, what initial steps would you take to make sure that source reduction and recycling are given enough emphasis in an overall strategy to address the solid waste crisis?

A. As I emphasized inmy hearing before the committee regarding my priority for pollution prevention, I agree that source reduction and recycling are critical to effectively addressing the nation's solid waste crisis. I have not yet had the opportunity to study the Agency's solid waste strategy "The Solid Waste Dilemma: An Agenda for Action" in detail. However, I do know that source reduction and recycling are key components of the Agenda for Action and I strongly support this emphasis. The Agenda lays out specific activities which are planned and under way and key roles for all levels of governments to promote source reduction and recycling. I strongly support an aggressive approach with well-defined tasks for Federal, State, and local governments. Also, the Agency has taken initial steps by issuing procurement regulations to help frame a Federal leadership role in implementing procurement policies that promote source reduction and recycling.

SENATOR DeCONCINI

Question

Mr. Reilly, you have been an observer of the E.P.A. for quite some time. From your experiences, what problems and deficiencies have you seen in the E.P.A. and what do you intend to do to address them?

Response

EPA, in fact, has a strong, dedicated, thoroughly professional staff. The Agency has gone through some difficult times in the early 1980s, from which -- only under the guidance of Bill Ruckelshaus and Lee Thomas -- has it begun to emerge. I see the Administrator role as bringing vision and leadership to motivate a staff poised to play an important role in environmental policy making. Clearly, the environmental problems this country and the world face require novel, imaginative thinking, and I sense on the part of the senior staff with whom I've talked a readiness to look beyond the traditional to come up with new approaches.

Is the budget sufficient to do the job? I need more time to assess priorities and review the numbers. It's my sense that strict congressional prescriptions and timetables have not been met because some programs do not have adequate staff to draw on. In other cases, e.g., Superfund, we may need more experienced senior, supervisory people. At this point, I can say I will be getting quickly into the budget process to make some determinations.

Question

What would be the impact on the agency's capability to carry out environmental policy if it were elevated to cabinet level status?

Response

I expect to have access to and influence on the chief policy makers of the Bush Administration. Achieving Cabinet status may facilitate this in some measure but from all the President has said to me, environmental concerns will be taken seriously from the start.

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Question

You have the reputation for being a great mediator. Do you intend to make greater use of mediation as opposed to litigation in the resolution of environmental disputes by the E.P.A.?

Response

EPA has sponsored some very promising experiments with negotiated rule making, and I want to continue relying on this approach where it makes sense. We can only negotiate from strength, however, and this means a vigorous enforcement program. We will be looking for other ways to cooperate and exchange ideas with the many publics affected by EPA decisions, and I certainly intend they be engaged in EPA decision making from the start.

Question: Do you support the previous administration's proposal to eliminate funding for the municipal sewage treatment grant program?

Answer:

The previous administration's proposals to phase out the municipal waste treatment grant program and to use the funds during the phase out to establish state revolving funds were consistent with the reauthorization of the Clean Water Act. I support the phase out of the grant program.

One of the ongoing issues has been the pace of the phase out. I will examine those funding issues in future years in the context of all the other environment resource demands upon this Agency.

Question

Many have alleged that the E.P.A. has had a confrontational, rather than a cooperative relationship with Congress in the formulation of environmental legislation. Do you agree with this assessment? If so, what do you intend to do to develop a more collaborative approach?

Response

As I said in my confirmation statement, I believe firmly that enduring environmental policy depends on bipartisan cooperation. I intend to work closely with the Members of Congress and encourage my staff to do likewise with their counterparts. Over 80 committees and subcommittees of the Congress have some jurisdiction over EPA, and this makes the job of congressional relations especially challenging. Nonetheless, I intend our Agency to be an active player in policy and legislative deliberations.

Q. There are a number of environmental problems originating in Mexico, such as sewage and air, that threaten the health and welfare of U.S. citizens on the U.S./Mexico border. Would you support sending U.S. resources to Mexico to resolve these issues when necessary?

A.

On August 14, 1983 the United States and Mexico signed a comprehensive framework agreement to address a broad spectrum of environmental problems in the border area, defined as extending 100 kilometers on each side of the boundary. The Agreement pledges cooperation to prevent, reduce, and eliminate sources of pollution which affect air, water, and land. Annexes to the agreement address specific problem areas. To date, the U.S. and Mexico have signed four annexes, addressing border sanitation in San Diego and Tijuana; hazardous substance discharges near the border; trans-boundary shipment of hazardous waste; and trans-boundary air pollution caused by copper smelters.

Through the framework of this Agreement, we have established very close ties with our Mexican counterparts, and have been involved in quite a few projects wherein we provide much needed technical assistance that have much broader application than just the border areas. For example, we have organized several workshops on air monitoring, emissions inventory training, and air sampling seminars which have been very useful in aiding the serious air pollution problem in Mexico City. We have also loaned air monitoring equipment, trained Mexican nationals on the operation calibration and maintenance of the air monitoring instruments, and have provided information on how our programs operate and how our standards are set.

In the near future, EPA will be looking to formalize cooperation with Mexico concerning areas outside the border in a more formal bilateral agreement. We look to further cooperation with Mexico on protection of the marine environment in the Gulf of Mexico and in the Caribbean; and we hope to continue sharing our technical expertise in order to combat our mutual environmental problems in the most effective manner.

Durenberger

Q. As everyone knows, regional conflict has prevented Congress from adopting acid rain legislation. One aspect of that conflict is the impact of an acid rain bill on Midwestern jobs in the high sulfur coal fields. Protecting these jobs by requiring technological controls would add substantially to the costs of an acid rain bill. Scrubbers also increase CO2 emissions, because they take so much power to operate. Do you think it is appropriate to include job protection as a major element of an acid rain bill, or do you think that we should go for a least cost strategy which allows complete freedom in achieving required reductions?

Considering the regional conflicts and the large impact of acid rain controls on the Midwest, do you think that a subsidy has any role to play in an acid rain program? Should we be taxing electricity sales or sulfur emissions nationally to help the Midwest pay for cleanup?

Answer: I am aware of the potential regional economic impacts of various proposals, of the impact of scrubbers on power plant efficiencies and consequently on CO2 emissions, and of various approaches to distribute the economic costs of acid rain control. I believe all these concerns must be considered in the development of any program to substantially reduce SO2 emissions, but I would prefer deferring specific responses to these questions until I have had an opportunity to talk with you and other members of the Committee.

Question:

One of the most controversial items in this proposed National Contingency Plan is a policy to defer Superfund cleanups at sites that might be handled under some other law. If it is an operating hazardous waste facility, Superfund would defer to RCRA. If it is a pesticides release, Superfund would defer to FIFRA. And in some cases it is even suggested that Superfund might defer to State solid waste management programs. I guess the theory here is that Superfund will save resources by passing some cleanups off to these other programs. But there really aren't any resources in these other programs. RCRA is not in better shape than Superfund. There isn't any cleanup authority at all under FIFRA. And the State solid waste management plans certainly don't have enforcement authorities like Superfund. If wonder if you have had a chance to look at this deferral policy and whether it makes sense.

Answer:

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A.

I certainly agree with a strong enforcement program. It is vital to the integrity of the Superfund Program to encourage voluntary cleanup of sites. In addition, I believe that recovery of EPA response costs should aggressively be pursued. If I become Administrator of EPA, I will seek ways to implement a strong Superfund Enforcement Program.

Safe Drinking Water Act

Q. One of my constant disappointments in watching the Agency is the Drinking Water program. It just doesn't seem able to get anything done. The Safe Drinking Water Act was first passed in 1974. It doesn't ask the Federal Government to do much. EPA is simply charged with promulgating standards. Because few standards were written through the 1970s we have the Agency a mandated schedule and list of contaminants in 1986. It was a list that EPA had been working on for a long time already. We've only been going about 3 years on that schedule now and EPA is already a year behind. 40 standards were to be issued last June and they are nowhere in sight yet. 30 more are due this June. And that doesn't even touch the problems with the lead rule. I've got a copy of a letter from Benjamin Franklin to one of his friends about the threat of lead in drinking water -- and still EPA can't get a rule out. I think it may be time for radical surgery on the Drinking Water office. It's not the law. And it's not resources. That office has had a 50% increase since the 1986 reauthorization. I'm looking forward to some tough oversight hearings on that program during this coming year. I wonder if you've given any thought to how you will evaluate the performance of the career office directors and other senior managers and whether you have a program that will motivate those who are not performing?

A. The Safe Drinking Water Act mandate is very ambitious; it has to be implemented with limited resources and under tremendous pressures from all sides. Obviously, if individual managers are not performing, we will take action to improve productivity. But I don't have any reason to think that there is a particular performance problem in the Office of Drinking Water.

It is my understanding that the Drinking Water program has made a great deal of progress in developing the drinking water standards required by the 1986 Amendments. A number of rules were promulgated on time (i.e., standards for volatile organic contaminants, Public Notification, the List of Contaminants and Substitutes, Unregulated Monitoring). Proposals have been published for two very complex and ambitious regulations -- Surface Water Treatment (includes filtration and disinfection requirements for surface water systems and coliform standards) and Lead and Copper -- which will be promulgated later this year. Finally, a proposal for nearly 40 standards has completed internal Agency review and will be published in late April after OMB completes its review.

All of this has been accomplished with minimal increases in resources. The staff authorization in the budget for standard setting increased from 67.2 workyears in FY 1986 to 70.2 workyears in FY 1989, a 4 percent increase. Contract funds increased from $3.9 million to $4.3 million in the same period (not counting the Congressionally mandated National Pesticides Survey), an 8 percent increase. The bulk of the increased resources for the Drinking Water program had to be put in our regional offices, to begin implementation and strengthen program implementation at the regional and State level.

The Office of Drinking Water has an extremely difficult challenge. It must balance what is necessary to protect public health with what is feasible to implement and enforce. The issue is not simple and prompts extensive public comment and debate. Final promulgation of several of the program regulations has been delayed to address such concerns. Rest assured the program is making every effort to implement the requirements of the 1986 amendments as expeditiously and responsibly as possible.

Question:

> Last year there was a spill of oil at an Ashland terminal near Pittsburgh. The response to the spill was conducted under section 311 of the Clean Water Act. As a result of the spill, a task force of Agency personnel reviewed the regulations for 311 and suggested a series of changes. A proposal to change the regulations has been prepared and is apparently ready to go through internal review. But now there is some suggestion that changes should be subject to a regulatory negotiation. You would invite in all of the interests and redo the work that has already been done by the task force. Regulatory negotiation can be helpful when a rule is likely to be very controversial or when you're breaking new ground. But that's not the case here. In this case a negotiation would only serve to delay action. In the interest of responding to the Pittsburgh spill in a timely way, I would just urge you to take this particular rulemaking to the Federal Register and not go through the regulatory negotiation process.

Answer:

The revisions to the oil spill regulations are likely to have a major cost impact on the regulated community, and numerous public comments are expected; therefore, EPA explored the possible use of regulatory negotiation to determine if the regulatory negotiation process could help to reduce objections to the revised regulations.

Following a contract analysis conducted for EPA by the Conservation Foundation, the Agency has determined that interest in the rulemaking is not sufficient to proceed with the regulatory negotiation process; consequently, the standard rulemaking approach will be followed. This decision was made on December 20, 1988.

The proposed rulemaking package is nearly ready to undergo complete internal Agency review, and EPA expects to publish a notice of proposed rulemaking in late summer, 1989.

Question

"Just before leaving office, Lee Thomas issued a new wetlands policy statement which is intended to implement a few of the proposals which were contained in the report of by the Conservation Foundation on wetlands. The EPA declared it to be the policy of the United States that there would be no net loss in acreage or function of wetlands. This is a laudable goal. But EPA really isn't in a position to accomplish that goal, is it? EPA has oversight responsibility for the Clean Water Act 404 program which is run by the Corps of Engineers. That is a program to regulate dredge and fill activities. But most of our wetlands are lost to drainage. I am sure you will want the rest of the government to adopt the no net loss policy, but we have a long way to go before that is in sight, don't we?"

Answer:
EPA did not presume to adopt a policy for the entire United States, but rather hopes to set an example by adopting the goal for itself. Clearly, this country cannot meet this wetlands protection goal without a cooperative and coordinated effort. In its Wetlands Action Plan, EPA outlines many actions which it can take to move towards the goal. However, the plan also recognizes the fact that many different groups have a role to play in carrying out a no net loss goal for the nation. Thus, EPA plans to provide guidance, technical support and some financial assistance to state and local governments to help them develop effective protection programs. EPA also plans to work with key federal agencies whose actions most directly affect wetlands. By stepping out front and committing to take actions within its own purview of influence, EPA hopes to encourage other federal, state, and local agencies, along with private organizations and individuals, to review their programs and actions, and to revise them accordingly.

Yes, there is a long way to go before the government as a whole reflects this goal in all of its actions. However, there are many potential steps which can move us that much further towards attaining the goal of no net loss of wetlands and, where feasible to increase the quantity and quality of the nation's resource base. One such step is to revise the Executive Order on Wetlands (11990) to reflect the goal and many of the recommendations of the National Wetlands Policy Forum if the President decides to take that course of action. Another step is to make many of the legislative changes needed to translate this policy into action (including changes to the Section 404 Clean Water Act to include other activities negatively impacting wetlands which are currently not adequately addressed).

Question: The transition from the construction grants program to a revolving fund and then a total phaseout of the Federal role is causing some problems for the States. Under the construction grants program, States were allowed to use 4 percent, I believe, of the grant to run their State water program. It was a set aside for that purpose. When construction grants were $2.4 billion, that was $96 million a year. With grants down to $400 million in the 1990 budget, States have lost $80 million. And we have not been very successful at appropriating dollars for the new initiatives in the 1987 reauthorization. The Reagan budget does expand the grants available under Section 106 and that can partly offset the loss of the construction grants set aside. But not completely. Are there ways that States can replace these revenues with other sources of funding -- permit fees or the like? Is it possible for the Federal Government to assist the States in finding new sources of funds? Have you looked at this problem?

Answer: The Office of Water began conducting a State Funding Study in 1988 to examine the anticipated shortfall in resources due to the changes of the construction grants program and new requirements laid on the States by the new amendments to the Clean Water Act and the Safe Drinking Water Acts. While there is no one solution to fill the funding gap, a variety of creative solutions that must be employed are coming from all constituencies, including Federal, State and local Governments as well as the private sector.

To help States close the financial gap, the State Funding Study is investigating various ways to support and stimulate new State efforts to increase their financial resources for water programs through the use of supplemental financing mechanisms.

> The States themselves are pioneering these new funding sources, which include new or increased fees for States services, dedicated product taxes, revenues from fines and penalties, innovative fiscal management of revenues through special water program funds, and creative ideas like income tax checkoffs. We are coordinating a national workshop in March to help stimulate and share such innovations.
>
> I recognize fully that strong State water programs are fundamental to achieving the Clean Water Act mandates. In fact, the 1987 amendments greatly expanded the work of the States. There is a need for continuing Federal grant support, and EPA is examining criteria for Federal grant assistance to States as part of the Study. A fifteen-member Task Force of high-level State and Regional EPA staff and EPA office directors has been formed to help explore both the supplemental financing and the Federal funding issues. I look forward to receiving the Study report in March, and will share the report and its recommendations with the Congress.

Question:

Late last year EPA proposed new regulations for the Superfund program. Those regulations are called the National Contingency Plan (NCP) and they implement the 1986 amendments to Superfund. It's a very lengthy regulation with many controversial provisions. And it is already several months late. How will you proceed on the NCP? Are you going to pull it back and reconsider some of the policies? Or are you going to press ahead with the rule as it was proposed?

Answer:

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Increasingly, the financial burden for pollution control is legislatively being shifted from the Federal government to the States. One of my overriding priorities, thus, will be to look into what might be an appropriate Federal role toward assisting States financially and technically in the long term.

SUPERFUND

Question: The budget which President Reagan submitted has a problem in the area of Superfund. There is no financing from general revenues. In 1986, we decided that Superfund should spend $8.5 billion over five years and that $250 million per year should come from general revenues. This budget provides $1.75 billion for Superfund -- which may be an adequate amount -- but it is accomplished by spending all of the trust fund monies available and no general fund financing is made available and we won't get to $8.5 billion, if we fail to appropriate funds from general revenue. Is this budget a signal that we won't be spending $8.5 billion on Superfund over this five-year period?

Answer: No, this is not necessarily a signal. I understand it was the previous Administration's position to request general revenues only when absolutely necessary. This policy reflects the constraints of the deficit and the status of Superfund receipts. For 1990, the Agency has estimated Superfund revenues will be adequate to support the $1.75 billion President's Budget. As I review the need for changes to President Reagan's 1990 budget request, I will consider the need for requesting general revenues.

Senator Durenberger

Q. Are you preparing a Clean Air Act program that would go forward in the absence of reauthorization. What could you achieve on acid rain, nonattainment and air toxics without a bill? How would you do it?

A. In each of the three areas you mentioned, I believe that we will only be able to make limited progress if the Clean Air Act is not reauthorized. However, I am committed, as my predecessors have been, to carry out the law and to proceed in these areas to the extent that I am now authorized to do so.

Under current law there is no direct authority for regulation of acid rain. As a consequence, the only way to achieve any reduction in the pollutants which contribute to acid rain at present is through regulation of those pollutants under other statutory provisions. Such an approach is difficult to pursue, for it may not result in significant acid rain benefits, may raise serious legal obstacles and may have unintended consequences on the affected regulatory programs.

In the area of nonattainment, in the absence of new legislation, I believe that it may be possible for some progress to be made through regulation at the federal level. Such activities might include volatility controls and issuance of technology guidelines. It will be difficult, however, to achieve concerted action at the state level in the absence of clear Congressional mandates which set forth the states' responsibilities for achieving attainment. Ongoing litigation, which has led to a court order requiring EPA promulgation of federal implementation plan in Chicago, and will likely lead to court orders to issue plans for Los Angeles and Ventura County, further complicates the planning process. EPA anticipates that additional litigation leading to more such orders is likely in areas which are having difficulty in attaining the ozone, carbon monoxide and particulate matter standards.

Litigation is a major issue in the area of air toxics as well. EPA is now under court order to promulgate final rules under Section 112 of the Clean Air Act for benzene and radionuclides by this coming August. I understand that the proposed standards for benzene issued last summer were quite controversial, and that EPA has been sued to force action on standards for several chemicals. These actions will clearly have to proceed in the absence of reauthorization, as well as EPA standard-setting activities under other authorities and the Agency's activities in support of State and local air toxics programs.

I am aware of the general dissatisfaction with the pace of EPA's issuance of standards under Section 112. While I understand that administrative efforts are underway to refocus EPA's standard-setting efforts, here again I believe that only reauthorization will give both the Agency and the Congress the clear direction which we need to effectively deal with these critical problems.

Question:

Last summer an international conference in Toronto recommended a 20% near-term reduction on CO2 emissions as the first step in a global climate protection program. Do you think a goal of a 20% reduction by the year 2000 or 2005 is appropriate for the United States?

Response:

The Toronto Conference and the international assessment meetings before that in Villach and Bellagio were extremely useful in broadening the understanding of issues related to global climate change.

The process leading to an international agreement has now advanced beyond these meetings of experts to involve world governments. I welcome the activities of the Intergovernmental Panel on Climate Change and look forward to EPA playing a leading role in our government's involvement in this process.

It is also important to keep in mind that the Montreal Protocol serves as the first steps in global climate protection. While the primary thrust of the Protocol was to guard against stratospheric ozone depletion, the suspect chemicals (i.e. chlorofluorocarbons) are also greenhouse gases and contribute approximately 15-20 percent of the projected total warming. Thus, the reductions required by the Protocol should be viewed as an important near-term step to slow the rate of warming.

Since carbon dioxide emissions represent about 50 percent of the greenhouse forcing, energy consumption must be considered as part of any solution to global climate change. Here our near-term efforts are focussed on developing cost effective technologies capable of substantially improving energy efficiency. For example, as industries seek alternatives to CFCs, we will be working with them to move in the direction of technologies which minimize energy consumption. We are also considering how other EPA programs can be directed in a way that both reduces other pollutants while decreasing energy consumption and emissions of greenhouse gases. The goal of these efforts is to channel future technological developments in a direction which provides low-cost solutions to CO2 reductions which will facilitate the achievement of any future reduction goals.

Senator Durenberger

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I am aware of the general dissatisfaction with the pace of EPA's issuance of standards under Section 112. While I understand that administrative efforts are underway to refocus EPA's standard-setting efforts, here again I believe that only reauthorization will give both the Agency and the Congress the clear direction which we need to effectively deal with these critical problems.

Another problem in the budget is the allocation of dollars between the construction grants program and the state revolving funds. The 1987 reauthorization had those dollars split evenly between grants and loans. The President's budget has two-thirds of the dollars in loans and one-third in grants. That's a problem for small communities. Many of them don't have the tax base that can support a loan. They just can't go that route because they can't afford the indebtedness. If there is to be a review of Reagan's budget, would you look at that allocation and the needs of small communities and see whether more for grants and less for loans might be appropriate in 1990?

Answer: I am aware of the magnitude of costs required to construct wastewater treatment facilities still needed by communities to comply with the requirements of the Clean Water Act. It is clear that meeting this challenge will require the close cooperation of EPA, the States, and local governments. Similarly, funding required to construct needed wastewater treatment facilities must come from a combination of Federal, State and local resources.

Former President Reagan's FY 1990 budget proposal for EPA was prepared under the budgetary constraints of the Gramm-Rudman-Hollings Act. In balancing all the Federal Government's priorities in the context of these constraints, Federal funding of $1.2 billion was proposed for the construction grants program in FY 1990. Of that amount, $800 million was targeted to State Revolving Funds because of the Agency's view that it is essential that financially viable SRFs be developed in the States to ensure that municipal wastewater treatment gains supported with construction grants are sustained once the grants program is phased out.

Given the impact of budget deficits on the Federal Government's ability to fully fund this program, it is critical to the financial viability of SRFs to direct a majority of the 1990 funding to these funds. In addition, many States are considering the financial situation of their local governments in the design of their SRF. Many States will offer varialbe financing in terms for loans (based on financial need) and some States will provide supplemental State grant assistance in hardship cases.

With regard to small communities, EPA is aware of the serious financial challenges facing small communities for compliance with environmental requirements, most significantly the requirement to treat municipal wastewater to secondary treatment standards.

In recognition of this need, the Agency has financially supported the Small Flows Clearinghouse for many years. This office in West Virginia provides a valuable service to small communities through disseminating information on wastewater treatment technologies that are most affordable for small communities. In addition, EPA has recently undertaken a Public/Private Partnership initiative to stimulate cost-effective solutions to the challenges of environmental infrastructure financing.

I intend to discuss funding for construction grants as well as other programs with the Bush Administration. It is premature for me to state any recommendations for changing the allocation proposed for construction grants in the FY 1990 budget request at this time.

Question: Mr. Reilly, I wonder if you would like to endorse of substantial gasoline tax increase as a solution to the global warming problem? I ask the question facetiously, but there is a kernel of truth in it too....

Answer: Appropriate pricing of energy is an important policy tool--prices of a particular form of energy, in principle, should reflect the true environmental costs of using that energy. Countries that have higher energy prices also tend to use it more efficiently; however, many political and macroeconomic ramifications need to be considered. It would be premature for me to guess what the effect of a gasoline tax would be on reducing CO_2 emissions.

I should also point out that fossil fuels are not the only source of greenhouse gases. Other reduction strategies should also be examined. Reductions in emissions of fossil fuels are part of the problem, and provide only one option.

One of the major rulemakings that is expected to emerge from EPA in the next few months is the RCRA corrective action rule. It will implement the corrective action requirements of the 1984 RCRA amendments. One major issue here is whether these rules should parallel Superfund. Congress did not provide much direction on this subject in RCRA. But when we did Superfund in 1986, we included a full policy with standards and priorities and so on.

Q. Do you think that the RCRA corrective action program should parallel Superfund as closely as possible or is there reason for a substantial departure from the Superfund model?

A. The corrective action program under RCRA is essentially a parallel program to Superfund -- the types of environmental problems that RCRA will deal with will often be very similar to CERCLA sites. In addition, there are a number of facilities -- in particular, certain Federal facilities -- that will be subject to cleanup requirements under both statutes. It is therefore sensible to have cleanup standards under RCRA that are consistent with CERCLA in achieving the same types of remedies for similar environmental problems.

At the same time, however, the RCRA corrective action program does not have to operate procedurally in a manner identical to Superfund. Under RCRA, cleanup is privately funded, and facility owner/operators are responsible for both investigating and remedying environmental releases. Some elements of the CERCLA process, such as PRP searches, cost recovery and others, will thus not apply. In addition, there will be a number of RCRA facilities where remedial solutions are relatively straight-forward, or where an owner/operator is willing to clean up to stringent levels; in such cases, many of the studies of alternatives that have typically been conducted for Superfund sites may not be necessary. For these reasons, it may be both possible and advantageous to create a somewhat simpler process for implementing corrective action under RCRA than we now have for Superfund. I would expect to address these issues in the rulemaking process.

Q.a. Do you think that we (Congress) should establish national numerical goals for waste reduction and recycling (for municipal solid waste)?

A. As noted below, the Agency has proposed a national numerical goal for solid waste reduction and recycling in its Agenda for Action. Such a goal could serve as a guideline for dealing with our nation's mounting garbage problem. Given the wide array of local demographic and economic circumstances and the need to assure stable recycling markets, however, any such goal should not be rigidly applied to each locality. Rather, it should be a national goal which some localities can exceed and others may not be able to meet. I expect to address the question of the advisability of legislation incorporating specificed national goals for waste reduction and recycling.

Q.b. EPA is currently proposing 25% recycling as a goal. Is that a good target in your view?

A. EPA's proposed goal is to achieve a 25% source reduction and recycling by 1992. Given the fact that we are recycling only about 10% today, I think this is an ambitious, but reasonable, goal in as much as it will call attention to the need to substantively increase ur recycling efforts. I would hope that we will be able to exceed 25% in the long run.

Q.c. Should we have a goal for hazardous waste minimization (i.e., source reduction and recycling)?

A. I question whether a specific national goal for hazardous waste minimization would be appropriate at this time. EPA found in preparing its 1986 Report to Congress on Hazardous Waste Minimization, that targetting the right number (assuming we're looking for a numerical goal) is a controversial issue for hazardous waste minimization. A concern expressed by companies who have had waste minimization programs in place for some time is that choosing a numerical goal might reward companies that have not yet established waste minimization programs and would therefore be able to make significant gains in the short term. On the other hand, a numerical goal might penalize companies that have programs well under way and are moving into potentially more expensive projects with longer-term paybacks.

The Agency is committed to submitting a second Report to Congress in 1990 with a more complete assessment of whether the nation needs additional incentives or disincentives to further reduce or eliminate the generation of hazardous waste including whether we should propose a numerical national goal. EPA also has embarked on a technical program in the interim that is encouraging progress in industry, and that is filling in the information gaps.

Over the next several months the Agency will be compiling information from two EPA surveys that were designed to assess, for the first time, how much hazardous waste generation and minimization is occurring in different sectors of industry. This information will also help us assess whether to set a numerical national goal. As this work proceeds, I intend to keep this an open process and to hear your views and the views of outside groups on this issue.

Question:

Do you think the United States should push for a substantial acceleration in the schedule for phasing out CFCs under the Montreal Protocol? Should we be looking for a total phaseout sometime during the 1990s? Should we take action unilaterally or only under the umbrella of an international agreement?

Response:

Based on new scientific evidence that became available after the Montreal Protocol was signed, an international consensus has emerged that greater reductions in ozone-depleting chemicals are necessary.

The United States played a strong leadership role in the negotiations leading up to the Protocol, and we intend to do the same during this next round. As the first step, Lee Thomas had requested that the United Nations Environment Program (UNEP) expedite the assessment and review process called for in the Protocol. In response to his suggestion and a similar one by many Senators, UNEP has quickly organized this process and the current schedule calls for completion of the assessments in August of this year followed by a meeting of the Parties in April 1990 to vote on changes to the Protocol.

To fully protect the ozone layer, use of the regulated ozone-depleting chemicals should be phased-out as soon as practical based on the availability of alternative technologies. While new technological developments have been promising and should allow for a phase-out before the turn of the century, I believe that it would be very difficult to accelerate the initial phase of the reductions (20 percent by July 1993). We will be working toward developing a more specific negotiating position over the coming weeks, but it is reasonable to look forward to a total, or near-total phase out late in the 1990s.

Given the substantial progress already achieved in obtaining an international response to protecting the ozone layer, I believe that we should focus our energies on modifying the Protocol and not initiate unilateral action.

QUESTION

Do you believe that the budget for 1990 which President Reagan submitted earlier this month provides sufficient resources to carry out the responsibilities assigned to EPA? Are you seeking additional resources or other modifications in that budget?

ANSWER

The reality of the deficit situation means that in the next two fiscal years, large increases in the EPA budget may not be realistic. President Bush has indicated that there may be some flexibility for changes to the FY 1990 President Reagan budget request.

The Reagan 1990 budget request was developed prior to the passage of several new pieces of environmental legislation (ocean dumping, Lead Contamination and Control Act, FIFRA, Medical Waste Tracking Act, etc.) and I intend to review the requirements of this new legislation as well as examine the budget base and other emerging environmental priorities. It is only then I will be able to determine whether resources within the base can be realigned or whether additional resources are necessary to address the major environmental problems facing us.

SENATOR BOB GRAHAM
QUESTIONS FOR MR. WILLIAM KANE REILLY
NOMINATED TO THE ENVIRONMENTAL PROTECTION AGENCY

We need to work together to effect the originally planned phase-out of the construction treatment grants program. The Reagan 1990 budget only proposes a total of $1.2 billion in FY 1990, as opposed to the authorized $2.4 billion. Reagan proposes $800 million to go to State Revolving Funds and $400 million to actual grants.

This is not acceptable. The needs already exceed the authorized amounts. We have a program to phase out grants and to turn the program over to the states under the revolving loan fund program. Do you see the Bush budget requesting a more appropriate amount for sewage construction? What would you recommend?

Similarly, do you anticipate that the EPA budget request as a whole under President Bush will differ significantly from Mr. Reagan's budget? How so?

Answer: I am aware of the magnitude of costs required to construct wastewater treatment facilities still needed by communities to comply with the requirements of the Clean Water Act. It is clear that meeting this challenge will require the close cooperation of EPA, the States, and local governments. Similarly, funding required to construct needed wastewater treatment facilities must come from a combination of Federal, State and local resources.

Former President Reagan's FY 1990 budget proposal for EPA was prepared under the budgetary constraints of the Gramm-Rudman-Hollings Act. In balancing all the Federal Government's priorities in the context of these constraints, Federal funding of $1.2 billion was proposed for the construction grants program in FY 1990. Of that amount, $800 million was targeted to State Revolving Funds because of the Agency's view that it is essential that financially viable SRFs be developed in the States to ensure that municipal wastewater treatment gains supported with construction grants are sustained once the grants program is phased out.

Given the impact of budget deficits on the Federal Government's ability to fully fund this program, it is critical to the financial viability of SRFs to direct a majority of the 1990 funding to these funds. In addition, many States are considering the financial situation of their local governments in the design of their SRF. Many States will offer varialbe financing in terms for loans (based on financial need) and some States will provide supplemental State grant assistance in hardship cases.

I intend to discuss funding for construction grants as well as other programs with the Bush Administration. It is premature for me to state what my recommendations for funding for EPA programs in FY 1990 will be.

QUESTION: At the Everglades Coalition Conference, Region 4 Administrator Tidwell emphasized the importance of EPA's role in protecting the Everglades, through veto over Section 404 projects, and through both surface and ground water quality protection. How do you see EPA's role in the protection of this precious resource?

ANSWER: EPA is currently working with the State of Florida Department of Environmental Regulation to develop water quality standards which reflect goals compatible with anti-degradation of present water quality. Towards that end, EPA is working with the State to reduce point source pollution as well as non-point source additions. Further EPA Region IV supports the inclusion of areas such as Everglades National Park and Big Cypress Swamp into areas designated as Outstanding National Resource Waters. In terms of EPA's role in actively pursuing resource protection, Region IV recently completed a section 404(c) site restriction in the East Everglades. In the future, EPA intends to continue to actively enforce the Clean Water Act Section 404(b)(1) Guidelines relative to continued agricultural, residential and commercial encroachment on the critical, high quality wetlands which determine the ultimate welfare of the Everglades system. EPA is currently working with the State and the Corps to successfully implement restoration of the Shark River Slough, an important component of the Everglades hydrological and ecological system. Finally, EPA is working with the Corps to identify and classify critical wetland areas under a joint EPA/Corps Advance Identification Program. This advance planning mechanism allows the regulated public to know which areas are vital to protection of the Everglades resource. EPA will continue to work with the Federal and State regulatory agencies addressing project proposals, particularly north and east of Everglades Park, and in the pursuing regional planning alternatives which recognize the importance of protecting critical areas.

Question:

What criteria are you planning to use in the selection of your assistant administrators? How much experience in environmental protection and natural resources management will you be looking for?

Response:

I intend to appoint the most able, professional team I can. Experience with one or more environmental issues, openness to new ideas and new ways of tackling problems, willingness to cooperate, managerial ability, personal chemistry -- these are among the criteria I am using to evaluate candidates for the top positions.

Question:

What do you see as the most important environmental problem your Agency must tackle in the next two years? What is your strategy dealing with such a problem?

Response:

EPA has a full plate, meaning I will not have the luxury of singling out the one most serious problem. Protecting public health and the environment is EPA's mission. Within this guide, I consider vigorous and timely enforcement of our pollution control laws and expedited Superfund cleanups two of the top priorities. Reauthorizing the Clean Air Act is another priority; other important legislation will require EPA attention as well. Other priorities include getting a handle on the complex international environmental agenda and fostering cooperation and exchange on these many issues; developing means to strengthen protection of wetlands, groundwater, and other critical natural resources; strengthening the base of science on which decisions are made; building enduring, productive relationships with government at all levels and citizen and other groups to get the best ideas working for us. I also intend to devote my attention to encouraging pollution prevention; our institutions and our culture must begin to favor waste reduction and recycling over disposal.

LOSS OF BIOLOGICAL DIVERSITY

Q. The rate of species extinction has greatly accelerated as man has increasingly altered the landscape. How will your Agency help slow this critical loss of biological diversity?

A. There are a vast variety of activities which are adversely affecting genetic diversity, such as agricultural development of wild areas and agricultural practices like monoculture and use of pesticides and herbicides, destruction of habitat for human settlements and facilities, replacement of natural forests with managed environments, and chemical contamination by pollutants and wastes. EPA's program authorities do not reach directly to the heart of this issue, which is control of land uses and loss of natural habitat. However, several EPA programs can contribute to maintenance of natural areas and genetic diversity.

--Protection of aquatic life is a basic objective of all of the programs administered under the Clean Water Act. While the statute basically establishes controls on water pollutants, EPA recognizes the importance of protecting aquatic habitat as well as controlling contaminants.

New and increased program activities that should lead to more effective aquatic habitat protection under the Clean Water Act include the National Estuary Program, stronger implementation of EPA's responsibilities to protect wetlands and other special aquatic areas from disposal of dredged or fill materials under Section 404, increased use of water quality standards and point source discharge permit authorities to protect biological resources, and State implementation of non-point source management programs mandated by the 1987 amendments.

In the National Estuary Program, where 12 projects are currently underway and we are planning four more, the plans that are being developed to protect the designated estuary go far beyond traditional water pollution controls to identification and protection of important habitat to restore the integrity of the natural estuarine system. This program will serve as a model for use in other areas; critical to the success of such broad approaches is a common plan that unites Federal, State and local agencies and engages the local public in providing support as well as direct action such as citizen monitoring. Achieving the habitat presentation objectives must marry Clean Water Act activities with creative use of Federal programs such as fish and wildlife management, establishment of national reserves, and strong implementation of State and local land use authorities for environmental protection.

-- Protection of marine life is also the basic objective of EPA's ocean dumping control programs under the Marine Protection, Research and Sanctuaries Act. Using the combined authorities of the Clean Water Act and this statute, EPA has just issued an Interim Coastal and Marine Policy. One of the goals of this policy is "restoration of the Nation's shellfisheries and saltwater fisheries and protection of marine mammals and living resources by controlling pollution and causes of habitat degradation and loss. Achieving this goal will involve a number of EPA programs as well as mobilization of cooperating Federal and State agencies.

-- Another important aspect to wildlife protection is the control of chemicals which could adversely impact present or future survival. In the pesticides area in particular, the Office of Pesticides and Toxic Substances has made important strides in advancing ecological risk assessment, and acting on those assessments in the registration of new chemicals and reregistration of older pesticides. The Agency must continue the momentum in developing new ways to determine the risks to nontarget species, such as birds, fish, or wildlife; for example, EPA has entered into a project with the Conservation Foundation to determine the most effective and meaningful ways to conduct field studies to assess hazards to birds from pesticides. The Agency must then act effectively to mitigate the risks, either through modification of the amounts and ways pesticides are used, or to take action to remove some chemicals or particular uses of some chemicals from commerce entirely.

The Agency is also soon to announce a new program for public comment on how to protect endangered species from pesticides which may cause jeopardy to their continued existence. EPA must move forcefully, but with the involvement and cooperation of farmers, the environmental community, and State, to implement a program which both protects threatened species and at the same time permits effective and competitive agricultural production.

-- Stronger programs under the Clean Air Act to address acid rain should result in ecological benefits. This is an important area for EPA and the Congress to focus as amendments to the Act are formulated.

-- Finally, in our international activities, EPA will support and contribute information to projects with other nations that address genetic diversity.

QUESTION:

I have followed with interest the Agency's recent action to restrict the use of diazinon, dicofol, and carbofuran due to harm caused to wildlife. What other pesticides are you concerned with in this regard and what actions will you consider to mitigate the risk?

ANSWER:

The Agency actions to restrict the use of diazinon, dicofol, and the proposed action for carbofuran, serve to reduce the burden of adverse pesticide effects upon wildlife. These actions provide protection to avian wildlife. In addition, the Agency has taken action to restrict the use of tributyl tin, TBT, in America's rivers, bays, and estuaries. This action will reduce the burden of adverse pesticidal effects upon aquatic organisms, specifically molluscs. Molluscs, though less visible than birds, are no less important in a healthy ecosystem.

Other granular-type pesticides, similar to carbofuran, may also be harming wildlife. Several of these are currently undergoing preliminary review by the Agency. As an Agency we must consider the most appropriate mitigating actions in order to reduce the burden of pesticide effects upon wildlife. These might include measures such as limiting the use or application methods of a pesticide, or, in the most extreme case, removing the pesticide from the market.

QUESTION: What is your view of the Corps' need to recognize environmental and recreational benefits in its projects?

ANSWER: EPA believes that the Corps should identify and analyze all potential positive and negative consequences of its projects, including environmental and recreational benefits; indeed, the National Environmental Policy Act (NEPA) requires this degree of analysis. Both NEPA and the Clean Water Act (CWA), however, require the analysis of project alternatives and the selection of the alternative that will result in the least environmental damage. EPA believes that both the environmental and recreational benefits should be viewed within the context of the total environmental impacts of the project and the extent to which these impacts have been avoided and mitigated. Therefore, while EPA believes that these are important factors and that they should be recognized, we do not believe that their consideration overrides other statutory and regulatory requirements such as the Section 404(b)(1) Guidelines and NEPA.

QUESTION: How can EPA weigh in with the Corps on its reluctance to restore the Kissimmee River and provide improved water quality to Okeechobee and thus the rest of the Everglades system? Also, how can EPA be more effective in enforcing water quality, such that litigation does not become the solution?

ANSWER: Historically EPA has strongly supported the South Florida Water Management District's efforts towards the restoration and reestablishment of the Kissimmee River. The Agency believes that restoring a "natural" river channel and allowing the river to meander through wetlands would indeed result in improved downstream water quality, as well as other environmental benefits which would extend well beyond the River itself. EPA's role in achieving the goal of restoring the River is one of working with the Corps of Engineers in an effort to realize the benefits of River restoration in light of other conflicting proposals which the Corps has determined will provide greater economic benefit. Further, EPA will continue to work with the State in identifying and rectifying non-point source water pollution problems. EPA will continue to stress the importance of the Kissimmee system to the overall hydrological welfare of south Florida and will continue to support State efforts towards pursuing Phase II of the Kissimmee River Restoration.

QUESTION

In previous discussions, you have come to the conclusion that not enough resources exist to carry out effectively the necessary programs to fulfill environmental needs and mandates of the Environmental Protection Agency. In the face of the deficit, how do you plan to employ these limited resources to best meet needs without compromising major environmental efforts?

ANSWER

The reality of the deficit situation means that in the next two fiscal years, large increases in the EPA budget are not realistic. President Bush has indicated that there may be some flexibility for changes to the FY 1990 Reagan budget request. This may mean increases in parts of the budget.

The Reagan 1990 budget request was developed prior to the passage of several new pieces of environmental legislation (ocean dumping, Lead Contamination and Control Act, FIFRA, Medical Waste Tracking Act, etc.) and I intend to review the requirements of this new legislation as well as examine the budget base and other emerging environmental priorities. It is only then I will be able to determine whether resources within the base can be realigned or whether additional resources are necessary to address the major environmental problems facing us.

Question:

One of your strong suits has been negotiating with environmental community and industry representatives to come up with workable solutions. As Administrator, how do you envision the role of local, regional, and state governments in the negotiating process?

Response:

Increasingly state, regional, and local governments are more than merely negotiating partners; they are co-implementors of national pollution control programs. Consequently, their involvement in designing and carrying out pollution control and other programs is essential. I intend to assure that the Agency has an ongoing, open, cooperative relationship with other levels of government.

Moreover, my experience firmly indicates that a wealth of new ideas and innovations can be found at the state, regional, and local levels. I want to pursue these possibilities, for they may offer breakthroughs to some of our most vexing environmental policy issues.

As problems in implementation arise, I intend that other levels of government be accorded status befitting their critical role in our environmental programs; if they have problems I will want to know and I will want their views taken seriously.

1/31/89

Question:

We are very pleased in Florida that Sarasota Bay has been designated as an estuary of national significance. We have also requested that Tampa Bay be designated, due to the threat o pollution to its precious resources. Emphasize the need. What are the possibilities?

Answer:

The National Estuary Program is a nationwide demonstration project targeting selected estuaries of national significance that are threatened by pollution and population pressures. There are currently 12 projects in the Program. In accordance with the requirements of the Water Quality Act of 1987, as amended, EPA gave priority consideration to the twelve estuaries named in the Act. The Agency convened management conferences in the Fall of 1987 and Winter of 1987-88 for Long Island Sound, New York and Connecticut; Narragansett Bay, Rhode Island; Buzzards Bay, Massachusetts; Puget Sound, Washington; Albermarle/Pamlico Sounds, North Carolina; and San Francisco Bay, California. These six programs were active prior to the passage of the Act. Management conferences of the six other remaining estuaries (Delaware Bay, Delaware Inland Bays, Galveston Bay, New York-New Jersey Harbor, Santa Monica Bay, and Sarasota Bay) were convened in July.

In November 1988, Congress passed the Ocean Dumping Ban Act of 1988, adding four more estuaries to the list named for priority consideration. They are Massachusetts Bay, Massachusetts; the Barataria-Terrebonne Estuary Complex, Louisiana; Indian River Lagoon, Florida; and Peconic Bay, New York. The Conference Report of the Ocean Dumping Ban Act states that "section 320(a)(2)(B)of the Federal Water Pollution Control Act requires the Administrator of EPA to give priority consideration to listed estuaries but does not require the Administrator to select these estuaries for the NEP and to convene management conferences. By adding more estuaries to Section 320(a)(2)(B), the conference managers do not intend to decrease funding for estuaries which have already been designated, nor preclude the designation of other estuaries not listed. In addition, the conference managers do not intend in any way to alter the nomination process already established in Section 320."

Interest in joining the NEP is keen. The Agency has already received nominations from Governors to include at least six other estuaries. This includes a nomination from Governor Martinez for Tampa Bay. The FY 1989 funding level for the NEP is only sufficient to support the twelve existing estuary programs. For FY 1990, the President's budget proposes to expand the program to support four new estuary programs.

I regret that current resources do not allow us to convene a Tampa Bay conference or any other additional conference in FY 1989. However, we will review and evaluate the Tampa Bay nomination and will seriously consider this nomination, along with all others, in the FY 1990 process.

Q. What direction do you plan to lead EPA in the disposal of solid waste? What strategy specifically do you see for plastics?

A. Solid waste is clearly a growing national problem. Although managing municipal solid waste is primarily a local responsibility, there is clearly an important Federal role. In general, I see the Federal role as providing a framework for states and localities to carry out their responsibilities. This includes providing leadership by establishing national goals and by federal procurement of recycled goods. In addition, the federal government should help provide technical assistance and educational materials to local governments. EPA should also foster source reduction and recycling. Of course, EPA must assure that landfills and municipal solid waste incinerators do not present undue risks to human health and the environment. With respect to plastics, EPA is conducting a Congressionally mandated study on the impact of plastics on marine life and the management of municipal solid waste. This study, which will be completed in June, of this year, will examine ways to reduce any negative impacts which may be found, through a combination of increased recycling, enhanced degradability, and safer landfilling and incineration.

Q. How do you see an equitable acid rain program playing out? How do you see energy conservation playing a part?

Answer: I believe that energy conservation can and should play a role in reducing acid rain, but as I indicated in the hearing, I would prefer deferring any discussion of specific aspects of a control program until I have had an opportunity to talk with you and other members of the Committee.

SENATOR HUMPHREY

Q. EPA's 1988 report states that "although economic incentives and regulatory approaches may be useful in the future, EPA is not recommending their adoption at this time." Do you believe that economic incentives such as local user fees should be a part of our federal waste disposal strategy?

A. Conceptually, local user fees should provide an incentive for both source reduction and recycling. The concept is straight-forward; people will cut back on the amount of solid waste they create and will recycle if they can save money by doing so. Some experts are concerned that such fees could also result in increased illegal "midnight dumping". Several communities now are using local user fees to encourage source reduction and recycling. Before the Agency makes user fees part of its strategy, it will review the impacts of the user fees in these communities to see if, in fact, they have the desired effects.

Q. Over 40% of discarded waste are paper and paperboard materials. Do you believe that the "hidden costs" associated with disposal of packaging materials should be assessed more directly? How?

A. I would agree that there are not now direct economic incentives for manufacturers and designers of packaging to reduce the volume of their packaging. They do not directly pay for the disposal of their packaging. The question is what impact a direct assessment would have on the volume of packaging. Would such an assessment actually reduce the amount of packaging to any significant degree, or would the extra cost simply be passed through to the consumer? If the assessment was simply used to pay for disposal, who would collect the assessment? If the federal government collected the assessment, how much would it cost to distribute the assessment to states and/or localities? If states collected the assessment, how could that be done in an administratively feasible way? EPA is examining this issue determine whether a workable system can be established.

Q. What are some of the plusses and minuses associated with bioremediation, the use of specially designed bacteria to degrade hazardous wastes?

A. EPA believes that biological treatment will prove to be a valuable tool in managing specific wastes, just as it has been used in treating wastewaters for many years. Because of that belief, EPA has invested research funds to further the development of bioremediation and other biological treatment technologies. However, there are technical difficulties associated with rapidly acclimating microorganisms (or developing new bacteria through genetic engineering) to degrade the many different toxic materials requiring remediation, and these difficulties have prevented broad demonstration of the potential of this technology. In addition, use of biological treatment is limited to the organic fractions of wastes. If metals or other inorganic toxic constituents are present, other technologies must be considered as alternatives or supplements to bioremediation.

We believe that, with time, many applications of relatively inexpensive biological treatment alternatives may appear as options to technologies such as incineration. In fact, EPA has pursued biological treatment demonstrations for several remedial projects and will continue to evaluate this alternative in future projects.

Question:

In OTA's 1988 Report on the Superfund Program they conclude that Superfund is "largely ineffective and inefficient." Do you agree with that assessment?

Answer:

I believe that the Superfund program has made a great deal of progress toward site clean-up, particularly in the past two years. The rate of that progress is evidenced by the dramatic increase in remedies selected, remedial designs started, and remedial constructions underway. Nonetheless, I continue to be concerned about the rate of clean-up activity, and particularly about the length, duration and cost of studies. I am also greatly concerned about effective management of our contract resources, and will consider this, as well as other areas as I carefully examine the efficiency and effectiveness of the Superfund program and consider proposals for improvements.

Question:

EPA's June, 1988 status report said that remedial action has been completed at only 35 of 799 sites on the National Priority List (NPL). This is a ridiculously low rate of clean-up. What are your recommendations as to how EPA's Superfund Program could be improved?

Answer:

I am also concerned about the slow rate of completed sites. However, I recognize that the Superfund program addresses problems at complex sites at which defining the extent of the problem sufficiently to select the correct remedy takes time. The study timeframe is followed by design and construction of the remedy, which is itself a lengthy process.

Progress in the Superfund program has picked up considerably in the years since the passage of SARA. Progress is not just measured in completed sites. Construction activities often take place in phases, and may result in a clean up of a part of the problem (such as the direct exposure problem caused by the source), but not the whole site (eg. the more complex groundwater remedy. EPA has currently started over 218 construction projects at remedial sites.

Nonetheless, I am very concerned about the length of the study phase of the process, and am very interested in pursuing the "bias for action" articulated in the draft NPC. As I review the Superfund program, I intend to carefully examine ways in which EPA can take measures to accelerate the rate of site clean-up.

Question:

I understand that clean-up for a NPL site takes, on average, 6-10 years. Do you think this timeframe is about right?

Answer:

Our analysis shows that the timeframe from remedial planning through construction is 5-7 years per operable unit. This compares to 6-9 years in the waste water treatment construction grants program.

We are continually examining our program operations to determine improvements that will reduce the timeframes and improve effectiveness. We are currently putting new contracting mechanisms in place under our ARCS program, improving project coordination with the Corps of Engineers who design and construct many of our remedies, and accelerating our remedial planning and remedy decision making process. These will be important tools to speed up and improve quality in Superfund cleanups.

Question: Do you believe that an increase in the use of nuclear power will likely be an important component in a strategy to reduce the potential for global warming? If yes, what role should the federal government plan in promoting nuclear power?

Answer: It would be preferable to emphasize the more benign options first. Introduction of more energy efficient technologies in the transportation, residential, commercial and industrial sectors, research and promotion of non-fossil renewable technologies like biomass, solar and geothermal all over the world could make significant contributions. Nuclear power could certainly be a component in the strategy to reduce the potential for global warming. However, current obstacles to nuclear power--safety, waste disposal and proliferation--need to be addressed and overcome, first. The federal government should continue to conduct research on the development of the new design of "inherently safe" nuclear reactors and technologies for safe disposal of radioactive wastes.

Q. Besides acid rain, what air pollution problems do you believe will require stricter Federal programs?

A. As I believe you know, we have made substantial progress in improving air quality in many areas of the country. However, there are many areas, too many areas, that have not yet achieved our air quality standards or which suffer as a consequence of air quality problems we are only beginning to address. Among these problems are the failure of a large number of our major urban areas to attain the ozone standard, continuing nonattainment of the particulate matter standard, air toxic pollution, acid rain, ozone depletion, indoor air pollution, radon contamination and global climate change. Rather than addressing each of these problems in a piecemeal fashion, I believe we should be searching for integrated solutions which will jointly consider as many of these problems as possible. Such an approach will not be easy, but I believe that in the long run it offers the greatest likelihood of significant and lasting environmental improvement.

Q. Despite consensus within the scientific community that emissions of sulfur dioxide and oxides of nitrogen result in acid deposition, the Unitied States has failed to take action to reduce significantly emissions of these pollutants

a. Do you support immediate action to reduce chemical emissions which cause acid rain?

b. Does your acid rain strategy favor one means of emissons reduction over another?

c. What reduction goals (in terms of how many millions of tons of SO2 and NOx over how many years) do you think are necessary to protect our natural resources?

d. How big a role do you anticipate for conservation in your acid rain strategy?

Answer: As I said at the hearing, I support legislation to reduce the emissions that cause acid rain, and I intend to work with the Congress on the specifics of that legislation. I would prefer deferring my response to your specific questions, such as the strategy, amount and timing of reductions, and the role of conservation, until I have had an opportunity to talk with you and other members of the Committee.

Q. Do you support immediate action to reduce chemical emissions which cause acid rain?

Does your acid rain strategy favor one means of emissions reduction over another?

What reduction goals (in terms of how many millions of tons of SO2 and NOx over how many years) do you think are necessary to protect our natural resources?

How big a role do you anticipate for conservation in your acid rain strategy? Do you have any plans as to how EPA might encourage conservation and energy efficiency improvements?

Answer: As I said at the hearing, I support legislation to reduce the emissions that cause acid rain, and I intend to work with the Congress on the specifics of that legislation. I would prefer deferring my response your specific questions, such as the strategy, amount and timing of reductions, and the role of conservation, until I have had an opportunity ot talk with you and other members of the Committee.

QUESTION

Recently, the Department of Defense announced its decision to close certain military bases, including Pease Air Force Base in New Hampshire. Pease contains a wild area on the coast of the Great Bay estuary.

a. Will you commit to assist the communities involved in assessing the water treatment facilities at Pease? Also, will EPA assist in the testing and analysis of drinking water at Pease?

ANSWER

Pease Air Force Base discovered a problem in 1977 with trichloroethylene contamination of the ground water, which is the base's source of water supply. Upon discovering this problem the base designed and built an activated carbon facility to remove the trichloroethylene. Since construction the level of trichloroethylene in the ground water has reduced to below detection limits, consequently, the activated carbon facility is now being used for polishing only. Four years ago the base returned to using ground water for water supply and is sampling and analyzing the ground water on a quarterly basis. They also have an installation restoration program to take care of any environmental problems caused by the base. EPA could inspect and assist with monitoring if necessary. The air force base only supplies drinking water within the base. Portsmouth, the neighboring city, uses surface water for its primary drinking water supply.

Question:

WILL YOU AGREE TO EXAMINE THE ADEQUACY OF POLLUTION CONTROL IN THE GREAT BAY WATERSHED?

EPA has a number of programs and policies to assist in assessing the adequacy of pollution control systems in the Great Bay watershed, as well as an antidegradation policy, adopted by each State, to prevent water quality impacts that would result in the loss of any of the current uses of the Bay. And further, since EPA lacks the authority and capability to protect the Bay from all sources of pollution, we promote coordination with other Federal and State agencies to enhance these pollution control efforts. This theme is exemplified in the EPA's National Estuary Program and Near Coastal Waters Initiative, and is a vital component of the effective implementation of EPA's National Coastal and Marine Policy. Each of these components of EPA's water quality protection program for Great Bay is briefly discussed below.

EPA PROGRAMS

National Pollutant Discharge Inventory System

The Clean Water Act established the National Pollutant Discharge Elimination System (NPDES) permit program to control the discharge of pollutants to surface waters. The Act requires the development of technology-based and water quality-based controls of conventional and toxic pollutants for such discharges. The NPDES has led to significant reductions in pollutant loadings to the Nation's receiving waters. Currently, EPA is developing a marine/estuarine permit writers' guide to focus on the special water quality concerns of coastal areas.

Amendment to the Water Quality Act of 1987 added new requirements to accelerate the control of toxic discharges to surface water where quality is impaired. EPA will be assisting the States in developing criteria for toxic pollutants, identifying the water bodies adversely affected by these pollutants, and revising permits for the point sources contributing those toxics to the waterbody.

State Nonpoint Source Assessment and Management Programs

The Water Quality Act of 1987 provided EPA with the tools to assure more aggressive, nationally consistent implementation of nonpoint source (NPS) pollution control by States and local jurisdictions. EPA provides the States with leadership, technical support, and oversight in the development of State NPS assessments and management plans. EPA has been working closely with states to ensure that coastal waters that are threatened or degraded by nonpoint source pollution are included in the management plans. Currently, the EPA Regional office in Boston is providing technical support and staff resources to New Hampshire to assist in the development of the State's NPS management plan.

Anti-degradation Policy

The Agency's antidegradation policy declares that "existing instream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected." Each State is required to adopt an antidegradation policy as a part of their water quality standards that, at a minimum, is consistent with the Agency's policy. This policy prohibits any activity which would partially or completely eliminate any existing use of a water body. An antidegradation policy analysis may be triggered under a number of activities, including the establishment of new or revised wasteload allocation (NPDES) permits, and at the request of private or public agencies or individuals for a special study of the waterbody.

Priority Wetlands List

The Great Bay is listed on the Agency's Priority Wetlands List for New England. This provides the Agency with more "clout" in the interagency review of 404 permit applications (dredging and filling of wetlands) to request that special attention be given to the case.

The following three EPA programs/policies reflect the Agency's understanding of the need to build partnerships with a wide array of Federal and State agencies whose programs affect the coastal areas. Each of these programs has the potential to directly address the pollution concerns of the Great Bay watershed. At a minimum, these activities can present New Hampshire with a model for estuary management and tools for its implementation.

The National Estuary Program

The 1987 amendments to the Clean Water Act formally established the National Estuary Program (NEP). The NEP is a nationwide demonstration project targeting selected estuaries of national significance that are threatened by pollution and population pressures. The estuary program promotes basin-wide planning and action through the development of comprehensive conservation and management plans. A key component of the program is that it involves all the local, state, and federal parties responsible for implementing the management plan early on in its development and final approval. The program's guiding principle is that a strong political and grassroots commitment is necessary to ensure the successful implementation of the management plan.

The current funding level for the NEP is sufficient to support the twelve existing estuary programs. However, the President's FY'90 budget proposes increased to support four new estuary programs.

As you know, interest in joining the NEP is keen. The Agency has received numerous nominations to include other estuaries, bays and bodies of water, in addition to the four estuaries named for consideration in the Ocean Dumping Ban Act of 1988.

Clearly, we cannot accept every candidate into the program. But we can, and do, seriously consider all nominations. Reviewing and evaluating nominations enables us to see different approaches to similar problems, as well as gain an understanding of the kinds of problems most likely to occur. As a demonstration program, such understanding is critical to helping us identify which estuaries best illustrate problems and solutions of national significance.

The nomination process can also be helpful to the nominees, regardless of whether they are finally selected. Because nomination packages require a showing of political, public, institutional, and financial commitment to a restoration program, the process forces officials to:

- identify the problems affecting the estuary, as well as potential solutions;
- identify and build institutional structures and commitments to plan and carry out solutions; and
- acknowledge that solutions can only occur under the pressure of strong public support.

The process also gives nominees the benefits of an Agency critique of proposed plans, and enables them to become part of the NEP's growing technology transfer network. One of the Agency's priorities is to transfer the technical and management tools learned through the NEP to state and local governments so that they can be applied to other estuaries.

The Near Coastal Water Program

The Near Coastal Water Program (NCWP) was begun in 1987 and is EPA's most recent step in coastal waterbody management. The program is a long range initiative to restore and protect the water quality and natural resources of the nation's coastal areas. The program will build on the lessons learned through the National Estuary Program and other EPA coastal programs such as the Chesapeake Bay and the Great Lakes Programs; develop new management techniques; and provide greater flexibility for States to tailor protection efforts to the needs of their coastal waters.

EPA, Region I, is developing a Near Coastal Waters strategy in order to 1.) inform regional and national constituencies about Region I coastal problems and needs, 2) provide the rationale and develop support for Region I coastal actions, and, 3) provide a framework and process for obtaining future commitments for coastal actions at the federal, state, and local levels.

As part of the strategy, an assessment of the condition of coastal waters, including Great Bay, is underway in Region I and will be completed by early summer. The assessment will address the major issues in coastal waters which have not been given the kind of attention received by estuaries and coastal waters such as Narragansett Bay and Buzzards Bay.

National Coastal and Marine Policy

The National Coastal and Marine Policy (NCMP), issued as an interim EPA policy on January 18, 1989, commits EPA to "protect, restore, and maintain the Nation's coastal and marine waters to protect human health and sustain living resources." The policy contains goals for: recovering full use of our coastal beaches and waters; restoring and protecting all living marine resources; minimizing the use of the oceans for waste disposal; improving the scientific understanding of pollution on coastal and marine resources; and promoting international efforts to protect the oceans. With the policy's issuance, EPA program managers have begun to develop action plans to achieve those goals and objectives of the Policy that are within EPA's purview.

At the same time, the document has been sent to other Federal agencies for their review and comment, with the intent of stimulating interest among the Agencies for developing a "truly national" coastal and marine protection policy. The EPA fully understands that the efforts needed to adequately protect these resources go beyond EPA's traditional pollution abatement and control programs, and that a truly "national" policy will require the establishments of partnerships among Federal, State and local governments, interest groups, and the public to achieve its full implementation.

Question Wetlands protection has been a contentious issue over the years often pitting developers against conservationists. New Hampshire's high growth rate has resulted in extensive wetlands loss rates in the southern portion of the state.

a. Do you feel that EPA has a consistent national policy for the protection of wetlands?

b. What policy changes would you recommend to take into account the cumulative impact of wetland loss.

Answer

a. EPA has made significant progress in recent years in its wetlands program - as evidenced by the formation of the Office of Wetlands Protection, Administrator-level participation in the National Wetlands Policy Forum, and the recent issuance of an EPA Action Plan to respond to the recommendations of the Forum. I believe that the agency has striven through its annual operating guidance and other guidance documents to develop a consistent national policy for the protection of wetlands. The agency also seeks to work with other federal agencies to promote consistently protective programs and policies affecting wetlands, and has presented its plans to stress this activity area in the Wetlands Action Plan.

A truly consistent national program for the protection of wetlands will require individual and cooperative efforts at all levels of government. In particular, EPA and the Corps would need to agree on policies implementing the jointly administered Section 404 Clean Water Act Program. The lack of agreement between the agencies on key Section 404 policy matters has long been a source of concern to those who believe wetlands are not being adequately protected within the program, and to those seeking permits who encounter differing agency viewpoints. The last few months have seen notable agreements on several important issues between EPA and the Corps - including wetlands jurisdiction and Section 404 enforcement. I hope to build upon this foundation of progress between EPA and the Corps to address key policy matters, including wetlands mitigation and the evaluation of alternatives to proposed discharges in permit decisions.

I also hope to provide additional guidance and assistance to State and local governments to develop and operate effective wetlands protection programs. If we are to turn the corner on the wetlands loss problem, all sectors of society - government, the private sector, interest groups and the public - must become more active and work together in the national interest.

b. New Hampshire is not alone in suffering environmental degradation to its wetlands from the piecemeal losses associated with high growth rates. Some States have already lost over 90% of their wetlands. Addressing cumulative impacts is a very complex challenge. It is very difficult scientifically to determine whether a particular development proposal impacting wetlands will be the "straw that breaks the camel's back" from the standpoint of the ecological functions of the system. A better approach is to evaluate the wetlands within the larger system - perhaps on a watershed basis - and to determine what activities are compatible with a healthy aquatic environment, in advance of specific development proposals. This allows the opportunity to develop a better scientific data base, establish environmental goals with a group of diverse community and regional interests, explore alternative approaches, and adopt an action plan to achieve development that is compatible with environmental objectives. I favor federal policies that foster the development of these environmental resource plans, and that establish standards the plans must meet to be compatible with the Clean Water Act. EPA is currently testing methods to assess the impacts of cumulative losses, and these techniques will be helpful to those developing environmental plans.

I also believe that a sound wetlands mitigation policy is important for addressing the cumulative impacts problem. We need to eliminate discharges into wetlands when there are alternatives that avoid adverse impacts, and we need sound approaches for restoring and creating wetlands to offset the losses from unavoidable discharges which otherwise comply with environmental criteria.

What will EPA's role be in seeking to attain the goal of "no net loss" of our nation's wetlands?

Answer:

EPA has already taken some steps towards meeting this goal. EPA recently released a "Wetlands Action Plan" in response to the recommendations of the National Wetlands Policy Forum. In this plan, EPA adopted the goal of the Forum to achieve no overall net loss of the nation's remaining wetland base, and where feasible, to increase the quantity and quality of the nation's wetlands resource base.

In addition to the "no net loss goal", the action plan outlines seven objectives and some of the major EPA actions which implement specific Forum recommendations. The seven objective areas are: a wetlands planning initiative; mechanisms to increase state and local role in wetlands protection; regulatory program changes; mitigation policy; information and education; addressing cumulative impacts of wetlands loss; and wetlands restoration.

Q. New Hampshire highway officials have expressed frustration with the Section 404 process. Do you feel that EPA should coordinate more closely with the Army Corps and the State agencies?

A.- Environmental regulations, including those under Section 404, have produced many changes in recent years affecting activities such as highway construction by increasing the awareness regarding potential environmental impacts associated with these activities. As the costs associated with the construction of major roadways has increased, so too has the need for resource agencies and project proponents to coordinate to obtain the most effective environmental results in the most cost-efficient manner. EPA is currently working with New England highway officials and others to improve coordination among agencies involved in the construction and permitting (under Section 404) of highways in those states. Several conclusions have been reached and recommendations are being implemented that we are confident will improve the effectiveness and consistency of the Section 404 permitting process.

1. We must ensure that environmental protection requirements under Section 404 are fully considered and incorporated during the design phase. This can be accomplished during "pre-404 application" meetings where involved agencies cooperate early in the process to ensure that project requirements and permit requirements are communicated and integrated.

2. Where an EIS is required, we must integrate NEPA and Section 404 requirements to the fullest extent practicable. Federal agencies have recently published joint guidance on "Applying the Section 404 Permit Process to Federal-Aid Highway Projects" that describes several techniques for improving this type of coordination.

3. Appropriate mitigation must be incorporated during project design to compensate for unavoidable impacts associated with the highway project.

With regard to this last issue, EPA believes that development of a Federal policy supporting "no net loss" of wetlands will help to focus agency discussions during the identification of practicable alternatives and appropriate compensatory mitigation for individual projects. In addition, a clarified Wetlands Protection Executive Order could contribute greatly to ensuring that Federally sponsored highway projects fully incorporate wetlands protection objectives. We are confident that improved coordination among the involved agencies in conjunction with clarification of the specific wetlands protection objectives of the Section 404 program will contribute greatly to a more responsive and effective permitting program.

Q. EPA's September 1988 report "The Solid Waste Dilemma: An Agenda for Action" sets a goal of managing 25% of the municipal solid waste through source reduction and recycling by 1992. Do you agree with this goal? What Federal actions will achieve a higher rate of recycling? How can the Federal government stimulate the market for recyclable and recycled goods?

A. While I have not had the opportunity to study the Agenda for Action in detail I am generally in agreement with this goal. I think that such a goal should be viewed as a framework for dealing with our nations mounting garbage problem. Given the wide array of local demographic and economic circumstances and the need to assure stable recycling markets, I would strongly urge that the goal not be rigidly applied to each locality. Rather, it should be a national goal which some localities can exceed and others may not be able to meet. Given the fact that we are recycling only about 10% today, I think this is an ambitious, but reasonable, goal inasmuch as it will call attention to the need to substanially increase our recycling efforts. I would hope that we will be able to exceed 25% in the long run.

The Federal government, through its procurement policies should take a leadership role in using recycled goods and in recycling materials. In addition, the Agency is pursuing a number of studies and activities to stimulate the market for recyclable and recycled goods as laid out in the Agenda for Action.

Q. Historically, solid waste disposal has been left up to States and localities. However, our nation is fast approaching a garbage crisis. What is your view of the proper role for the Federal government in the disposal of solid waste? Will EPA take aggressive action in this area?

A. Although municipal solid waste is primarily a local responsibility, the problem is national in scope. Therefore I see a significant role for the Federal government. In general, I see the Federal role as providing the framework for States and localities to carry out their responsibilities regarding municipal solid waste. This would include providing leadership by establishing national goals for recycling and reduction and by Federal procurement of recycled goods. The Federal government should also help provide technical assistance to local governments. Of course, we should assure that landfills and incinerators will not present undue risks to human health and the environment. I intend to consult with Congress in continuing to define the EPA role and believe that EPA should aggresively pursue those activities that should be carried out at the Federal level.

QUESTION: What are some of your specific recommendations as to how the Clean Water Act's Section 404 permit process could be improved?

ANSWER: EPA believes that there are various means by which to improve the existing Section 404 permit process. Achieving consistent determinations of wetlands jurisdiction are critical to ensuring that the Section 404 permit process is both effective and efficient. In this area, EPA has recently signed an interagency (EPA, Army, Fish and Wildlife Service, and Soil Conservation Service) manual that establishes uniform procedures for delineating jurisdictional wetlands. Also, EPA and Army recently signed a Jurisdiction Memorandum of Agreement (MOA) which clarifies each agency's role in determining proper jurisdiction.

Another of EPA's primary objectives for the Section 404 permit program is the development of a joint mitigation policy that addresses sequencing (i.e., first avoidance of impacts, followed by minimization, and lastly compensation of unavoidable impacts), and sets a goal of no net loss of wetlands (as measured by acreage and function). Also, EPA and the Corps need to work towards developing consistent interpretations of the Section 404(b)(1) Guidelines. In particular, EPA is concerned that consistent and appropriate analyses of alternatives be accomplished when evaluating permit applications and determining compliance with the Guidelines. Of additional concern is resolving differences with the Corps over the proper definition of "fill material," as opposed to "waste material," in order to ensure that discharges into waters of the United States are evaluated under the appropriate provisions of the Clean Water Act (i.e., Section 404 versus Section 402).

EPA is committed to establishing and maintaining a visible and effective Section 404 enforcement program. In recent years, the EPA Regions have been taking an increasing number of administrative and judicial enforcement actions against unpermitted discharges and we expect this trend to continue. Also, EPA and Army recently signed an Enforcement MOA which provides EPA and Corps field staff with the policy and procedures needed to effectively and efficiently implement our shared enforcement responsibilities.

EPA believes that implementation of these recommendations would result in an improved Section 404 permit process. Moreover, we believe that Section 404 could serve to better protect our nation's wetlands if it were amended to, among other things, expand the activities regulated under the permit process; clarify the extent of waters of the United States; and provide adequate incentives to the states to assume the permit program.

Question:

I have been working to get a fence installed at a New Hampshire NPL site, the Coakley Landfill. The Agency for Toxic Substances and Disease Registry (ATSDR) recommended that access to the site be limited. What weight would you give recommendations made by ATSDR?

Answer:

In October 1988, ATSDR reviewed analytical data relating to the Coakley Site. At that time, they indicated that there was inadequate surface soil information available, but that since information was inconclusive, a fence should be erected and signs posted..

At the same time, EPA Region I collected soil samples of the area in response to ATSDR's observation. That information was forwarded to ATSDR recently. The Region I office is expecting an evaluation, based on surface soil data, by February 3, 1989.

The Region has indicated that they intend to follow the recommendations and, if it is recommended in the revised health advisory recommends, they will limit access to the site.

Question:

Do you think that the Superfund Program needs restructuring? If yes, how?

Answer:

I have received recommendations on both sides of this issue. Restructuring often has it's own cost in program slowdown. As I examine the progress of the Superfund program, and issues raised by recent reports, I will clearly examine issues related to potential restructuring, among others.

Question:

What are your recommendations as to how EPA's Superfund clean-up programs could be improved?

Answer:

As a member of the Clean Sites board of directors, I have been concerned for some time about the provision of adequate incentives for PRP settlement. I am encouraged about the current progress in the settlement picture, and plan to examine further whether there are additional steps to be taken. I am aware of a number of initiatives currently within the Agency to address the cost and duration of studies, and to ensure that a "bias for action" occurs and that clean-ups begin quickly. As part of my examination of the Superfund program, I will focus on these areas and review possible new directions and additional steps. I will also be examining retention, training, and experience issues related to EPA staffing concerns to ensure that EPA staff are well qualified to manage this complex program.

__Question:__ Use of scrubbers to clean high-sulfur coal results in the burning of more coal, thus increasing emissions of CO2. How much weight should we put on global warming concerns as we seek to reauthorize the Clean Air Act?

__Answer:__ EPA is concerned about the effects of global warming. We are increasing and improving our efforts to assess the magnitude of these effects and how they relate to other agency policies. We are starting to look at the policy question you are raising by examining the implications of various CO2 control strategies under the Clean Air Act.

The picture is complicated however, for example, the use of scrubbers may reduce global warming effects if, in fact, projected increases in the cost of producing electricity increase prices, lower demand, and thereby reduce CO2 emissions.

Q.a. Do you feel that RCRA is adequate in regard to the regulation and disposal of non-hazardous solid waste?

A. Since I have not had time to study RCRA in great detail, I can only share with you my preliminary thinking. RCRA provides authorities which can adequately deal with many of the solid waste issues which have arisen. However, RCRA could serve as a more effective mechanism if the requirements for municipal incinerator ash management and special wastes such as mining wastes could be tailored to protect public health and the environment in a feasible manner. I intend to look further at the need for additional authorities for the RCRA program to effectively address non-hazardous solid waste.

Q.b. What is your view of the proper role of the Federal government in the disposal of solid waste?

A. Although municipal solid waste is primarily a local responsibility, the problem is national in scope. Therefore I see a significant role for the Federal government. In general, I see the Federal role as providing the framework for States and localities to carry out their responsibilities regarding municipal solid waste. This would include providing leadership by establishing national goals for recycling and reduction and by Federal procurement of recycled goods. The Federal government should also provide technical assistance to ensure that experts are available to local governments for hands-on technical assistance. Of course, we should assure that landfills and incinerators will not present undue risks to human health and the environment.

Q.c. How do recycling and source reduction fit in your solid waste strategy?

A. They are key elements in our strategy. The first line of defense is to reduce the volume and toxicity of municipal solid waste to the extent practical. Then, to recycle all of the materials which can be practically recycled. The remainder is then either landfilled or incinerated.

Questions from Senator Inouye

Sugar Mills on the Hilo-Hamakua Coast of Hawaii

QUESTION:

A. May I have your assurance that all these important issues (as referenced in Senator Inouye's introductory discussion and attached specific questions) will be analyzed with the utmost objectivity and as thoroughly as the data will allow, and that they will be incorporated in the final recommendation of the Task Force?

ANSWER:

The EPA has established a Task Force, which includes the State of Hawaii Department of Health, to evaluate the discharges from the raw cane sugar mills on the Hilo-Hamakua Coast of the Island of Hawaii. That Task Force has approved a staff work plan to evaluate, at least preliminarily, not only water quality standards but all of the factors included in the legislative history to the FY 1989 HUD and Independent Agencies Appropriations Bill. I can assure you that the Task Force will analyze these important issues objectively and with as much completeness as the data now being gathered will allow.

QUESTION:

B. May I count on you to fully weigh and balance the potentially grave social and economic costs of compliance for the community of the Hamakua Coast against the environmental benefits of compliance prior to rendering your final recommendations to Congress?

ANSWER:

The Task Force will address the specific questions raised by Senator Inouye, including the cost and effluent reduction benefits of continued compliance by the mills with the effluent guidelines, and the non-water quality impacts of achieving the guidelines. The Task Force also will evaluate the impacts of these discharges on the water quality of the Hilo-Hamakua Coast. We expect to gather information on the social and economic costs of compliance to the community as well. However, there are many non-environmental policy and social judgments that are relevant to the decisions facing the mills and the State of Hawaii in assessing the adequacy of pollution controls and water quality standards. The Task Force claims no special expertise on these issues, but will continue to evaluate the relevant factors for inclusion in its report.

I am aware that the 1987 Clean Water Act Amendments authorized $1.2 billion in Construction Grants and $1.2 billion in State Revolving Funds, for a total of $2.4 billion. Yet, President Reagan's budget request for Construction Grants is $400 million and $800 million for State Revolving Funds, for a total of $1.2 billion, one half of the total amount authorized for these programs. I am very concerned about the devastating impact on the State of Hawaii specifically.

Question: What is your view about the funding for these programs and specifically, the role that EPA should play in working with the State of Hawaii to finance the needed upgrade of sewage treatment plants to comply with P.L. 100-47.

Answer: I am aware of the magnitude of costs required to construct wastewater treatment facilities still needed by communities to comply with the requirements of the Clean Water Act. It is clear that meeting this challenge will require the close cooperation of EPA, the States, and local governments. Similarly, funding required to construct needed wastewater treatment facilities must come from a combination of Federal, State and local resources.

Former President Reagan's FY 1990 budget proposal for EPA was prepared under the budgetary constraints of the Gramm-Rudman-Hollings Act. In balancing all the Federal Government's priorities in the context of these constraints, Federal funding of $1.2 billion was proposed for the construction grants program in FY 1990. Of that amount, $800 million was targeted to State Revolving Funds because of the Agency's view that it is essential that financially viable SRFs be developed in the States to ensure construction grants are sustained once the grants program is phased out.

Given the impact of budget deficits on the Federal Government's ability to fully fund this program, it is critical to the financial viability of SRFs to direct a majority of the 1990 funding to these funds. In addition, many States are considering the financial situation of their local governments in the design of their SRF. Many States will offer variable financing in terms of loans (based on financial need) and some States will provide supplemental State grant assistance in hardship cases.

Please be assured that EPA has and will continue to work with the State of Hawaii to meet its wastewater treatment needs necessary to comply with P.L. 100-4.

TASK FORCE STUDY QUESTIONS

The following specific questions are to be answered in Phase 1 of the Task Force Study

1. a) Do the existing or proposed discharges pose a significant threat to human health?

   b) Is there any significant level of toxic pollutants attributable to these discharges in the water column outside the zone-of-mixing?

2. Aside from the zone-of-mixing, will the existing or proposed discharges have a significant, permanent adverse impact on the marine environment or cause an unreasonable degradation of the marine environment, including ecosystem diversity, productivity and stability of the biological community in the area?

3. What are the non-water quality environmental impacts of a shutdown of these facilities? Are there positive environmental benefits to the continuation of these agricultural enterprises? To the extent that there are, please quantify. For example, what is the negative air quality impact of replacing the electric energy produceduced by these facilities with the energy generated by fuel or oil?

4. What are the current costs of compliance compared to the costs of compliance if the effluent limitations were relaxed as proposed?

5. Is there a reasonable relationship between the current costs of compliance and the effluent reduction benefits (including the effect on water quality) of current controls versus the proposed discharges?

6. Have the economic circumstances of the Hilo-Hamakua Coast sugar processing mills subcategory changed since the effluent guideline was published? To the extent that they have, please detail.

7. What legal authoriities are available under the current Clean Water Act to relax the effluent limitations for TSS applicable to the mills? Could a decision on such relief be made within 90 days? What are the procedural or substantive barriers to providing such relief?

8. Are there other TSS control techniques which would be more effective and less costly?

9. Are these discharges generally similar, in terms of impact on the marine environment, to the discharges that have occurred for thousands of years at the many natural gulches and streams along the Hilo-Hamaku coast?

10. Is there any substantial evidence to contradict the Grigg report which concludes that there are no significant permanent impacts on the marine environment or interference with beneficial uses within the present zone of mixing, either inside or outside of the zone of mixing, which would result from a determination of the zone of dilution calculated by an appropriate plume model?

Answer: I will have the Office of Water look into these questions.

Questions from Senator Lautenberg

Emergency Planning and Community Right To Know Act (Title III)

The Reagan '90 Budget calls for cuts in the chemical emergency planning components of the Title III budget. This is contrary to both the law, and the recent congressional views on the law expressed in the Senate Report accompanying the FY 1989 HUD-Independent Agencies (HUD-IA) appropriations bill, which indicated that EPA had a role equal to States and localities in implementing the law's emergency planning provisions.

Q. Do you see EPA having a more significant role and budget in emergency planning?

A. Actually the Reagan FY90 Budget calls for a small increase in the overall emergency planning and related enforcement components of the Title III budget.

The Agency's position on its role in emergency planning was stated in hearings before your subcommittee and in the October 12 written response to your "20-Point Plan" (appropriate excerpts attached). The role contemplated for EPA is a major one in partnership with States, communities, public interest groups, industry and the public. EPA's role, in coordination with other Federal agencies through the National and Regional Response Teams, is providing national leadership, promulgating regulations implementing the statutory requirements, developing guidance materials, providing technical assistance and training to support State and local capabilities, fostering use of the information for mitigation and prevention of chemical accidents, conducting appropriate enforcement, and assisting State and local compliance and enforcement efforts. While continuing to define EPA's role, I will ensure that EPA is fully committed to this partnership.

Q. Will you review the Title III program to assure consistency with the Congressional views expressed in the Senate Report accompanying the FY '89 HUD-IA bill?

A. While I have already been briefed on the Title III program, I will of course continue to review the Agency's efforts in order to assess our implementation approach and progress in the context of the cited Senate Report. In particular (as mentioned in the Senate Report), I favor Federal technical support for State and local program implementation and uses of the data, as articulated in an EPA document called the Delta Accord, previously provided to your office.

Excerpt from Response to Sentor
Lautenberg's 20 Point Plan

15. Commit to "Equal Partner" Emergency Planning Policy

EPA has long promoted a major federal role in emergency planning as part of a partnership with states, communities, public interest groups, and industry. Prior to Title III, EPA, working with other federal agencies through the National and Regional Response Teams, developed and implemented the Chemical Emergency Preparedness Program (CEPP). This voluntary program provided emergency planning guidance to states and communities (the CEPP Interim Guidance); a list of acutely toxic chemicals for communities to focus priority planning; and technical assistance and training for states and communities. These CEPP program components were adopted as part of the Title III statute and program.

Under Title III this federal role has continued and been strengthened. In the context of the framework set forth in the statute, we view the federal role in emergency planning as providing national leadership, promulgating regulations implementing the statutory requirements, developing guidance materials, and providing technical assistance and training to support state and local capabilities. States and communities have the primary responsibility for developing and implementing emergency planning and response programs. Industry's role is to comply fully with the reporting requirements, participate actively with LEPCs and SERCs to insure that Title III works, and take actions to reduce risks. The public's role is to increase awareness and understanding of chemical risks, get involved in the Title III process, and support actions to reduce chemical risks. Each "partner" has a different role in emergency planning, but each is critical to its overall success.

EPA is fully committed to the federal role in this partnership and has steadily increased its effort to fulfill this responsibility since the initiation of a preparedness program in 1984 even before the development of the CEPP. See responses to questions 1, 2, and 20 for additional information on this issue.

Excerpt from Response to Sentor
Lautenberg's 20 Point Plan

20. Make Chemical Emergency Planning Ongoing Priority.

As described in the response to question 15, EPA has made chemical emergency planning a priority with steadily increasing emphasis since 1984.

Our position on the planning deadline was clearly stated in my testimony at the hearing on May 26,1988:

> Concerning extensions of the statutory planning deadline under Section 303, EPA is encouraging state commissions and local planning committees to consider the October deadline the first round of the planning process. The goal for this October should be to develop the best possible plans given the short time frame and other constraints. Title III makes clear that the planning process is iterative and continuous, with updates, revisions and testing each year. EPA will work with other federal agencies to assist SERCs and LEPCs to improve the process and plans during each planning cycle.

Since May, we have continued to emphasize this point with SERCs, LEPCs, the fire service, industry, public interest groups and all other parties involved in Title III implementation. In particular, working with groups representing forty diverse organizations, EPA led the effort to develop a brochure, "It's Not Over in October! A Guide for Local Emergency Planning Committees" (advance copy enclosed), which has the need for ongoing planning activity as its major message. Thousands of copies are being printed and will be distributed nationwide by EPA to SERCs and LEPCs and through all participating organizations. Additionally, I am writing all Governors with a similar message about the need for ongoing planning, emphasizing major continuing responsibilities under Title III.

Working with SERCs and LEPCs on emergency planning is a major priority for EPA in FY89 and in the future. Attached are copies of the Agency's FY89 Operating Guidance for the Chemical Emergency Preparedness and Prevention program and our internal accountability system measures for our regional offices' commitment to negotiate agreements with states on program implementation, delivery of technical assistance in plan development and review, and assistance in conducting simulation exercises to test plans.

Similarly, EPA has an ongoing commitment to develop emergency planning guidance materials. The National Response Team, which EPA chairs, has developed guidance for SERCs and LEPCs (the Hazardous Materials Emergency Planning Guide, NRT-1) and "Criteria for Review of Hazardous Materials Emergency Plans," NRT-1A for use by Regional Response Teams (RRTs), SERCs, LEPCs or others in reviewing emergency plans, which will be a major activity at all levels in FY89. In conjunction with the Department of Transportation (DOT) and the Federal Emergency

Management Agency (FEMA), EPA developed and distributed Technical Guidance for Hazards Analysis to supplement NRT-1 for the critical planning activity of hazards analysis, especially for extremely hazardous substances. In FY89 we will continue to work through the NRT to revise, add to or supplement these guidance materials, continuing to support SERC/LEPC emergency planning efforts. EPA has placed a high priority on the importance of working with other federal agencies to assure that no federal agency publishes independent guidance, or develops independent training or technical assistance, etc. without full and complete coordination. Without such federal coordination, misunderstanding and confusion about how to deal with chemical emergencies could result.

EPA remains committed to hands-on assistance. Through our Regional Offices, working closely with other federal agencies through the RRTs, EPA will continue to increase the technical assistance, training, and exercising activities that we reported in detail to the Senate Subcommittee in May.

Emergency Planning and Community Right-to-Know Act Title III) (continued)

" -- And will you take steps to assure the effective use of the Title III emissions data as well as the public availability of this data, including through the mandated data base, at the soonest possible time? "

Answer:

Yes. I understand that EPA has already made a strong commitment to facilitating the effective use of the section 313 data, and I plan to continue to support this priority.

EPA received over 70,000 chemical specific emissions reports from over 17,000 individual facilities in response to the first year of section 313 reporting requirements. At this point the Agency is focusing its efforts on ensuring that data are adequately quality controlled, and that the data entry and necessary programming is completed to make the database easily accessible to the public as soon as practical. At the same time, EPA is developing mechanisms to assist the public in accessing, using and interpreting the data.

EPA's objective is to have public access to the online database begin late this spring. The agency has contracted for the National Library of Medicine, to be the initial purveyor of this database by making it a component of their successful TOXNET system. The NLM system offers a variety of chemical information that will complement the emissions data and has a well established user base. EPA is supporting enhancements to the NLM system and the development of training materi~~als that will~~ make it easier to use by the general public. For those members of the public who wish to access the data through other means, EPA will be providing a special access service, as well as distributing copies of the data in microfiche form to county libraries and CD-ROM versions to state agencies and federal repository libraries. Researchers will be able to acquire portions or all of the database by purchasing tapes from NTIS.

EPA is also preparing state and local officials to assist the public in using and interpreting the data. EPA has developed a network of state contacts who have been designated to respond to citizens' requests for information relating to the database. EPA is providing these officials with materials on how to use the TRI data, as well as information on the characteristics of chemicals on the section 313 list. EPA will also make additional technical support available.

Finally, EPA itself is looking forward to using the section 313 data. An agency-wide task force has been formed to coordinate use of the information and facilitate access. Each of the Agency's program offices has developed a preliminary plan for using the information in screening activities to identify chemicals or source categories of potential concern.

Question:

GAO has documented that by March 31st, EPA will have missed 57% of its Superfund deadlines. What types of approaches might you take to turn-around this noncompliance with Superfund deadlines.

Answer:

One of my concerns in Superfund, as in other programs, is timely response to Congressional deadlines. As there are a number of different deadlines that have been missed, there are undoubtedly a number of different reasons why these deadlines have been missed. I cannot respond generically at this point, but I plan to examine progress in the Superfund program, and missed deadlines is clearly an item that will have my attention.

Question:

EPA and OMB have added a good deal of red tape to the Superfund Technical Assistance Grants Program. I and other members have submitted a plan(by letter) to simplify the program. Will you review the program taking the comments we have submitted into account to see if it can be improved?

Answer:

The Agency has, from the very beginning of the Technical Assistance Grants(TAG) Program, tried to avoid the red tape involved in a Federal grants program. We recognize that more needs to be done to reduce obstacles to public participation in the program. Currently, the Office of Emergency and Remedial Response is conducting a survey to determine where the problem areas are and how they can be solved. Based on comments in the letter to which you refer, the program survey, public comments received, and our experiences working with the program to date, the Agency is now revising the Interim Final Rule to make the program more effective.

Q. Will you increase the enforcement effort with respect to both the emissions inventory and emergency planning component of Title III?

A. The 1990 budget provides for a small increase in both the emissions inventory and emergency planning enforcement components of Title III.

In order to address the emissions inventory aspects of the program, contractor (AARP) resources have been transferred from regional outreach to enforcement activities in 1989 and 1990. These resources will be used to investigate and develop enforcement actions under Section 313. In addition, an increase in extramural (contractor) funds is provided for ADP systems, case support and inspector training. The Agency will also devote Headquarters resources (in part using a small increase in 1990 resources) to enforce where field investigations are not necessary to detect a violation.

The emergency planning component of Title III will utilize its increased enforcement resources to focus on violations of the notification requirements for releases under Title III and similar requirements under Section 103 of CERCLA, tie in to those enforcement actions where appropriate other violations of Title III, and provide significant technical assistance to SERCs and LEPCs in development of enforcement programs for local reporting requirements.

Q.

GAO has documented that the rate of recovering cleanup costs from polluters has not increased. What steps are you going to take to increase Superfund enforcement and cost recovery?

A.

Superfund enforcement is very important, and cost recovery is a vital part of the enforcement program. One of my highest priorities as Administrator will be to evaluate the status of all aspects of the enforcement program. In conducting this evaluation, I will seriously consider the recommendations of GAO and others who have recently analyzed EPA's cost recovery program. I will evaluate the process by which cases in which cost recovery is pursued are selected. I will be looking into ways to improve the documentation of costs and to enhance EPA's ability to recover pre-judgment interest on costs. I will also be examining the indirect costs (such as overhead) which we should be recovering.

What priority will you give to waste reduction? Do you feel the existing level of effort is adequate? What plans to you have to increase the Agency's waste reduction efforts?

Pollution prevention and waste reduction will be one of my highest priorities. The Agency, along with the States, other federal agencies, local governments and the regulated community, has made great progress in meeting the environmental challenges of the 70s and 80s. We now have a good understanding of the strengths and limitations of a control technology/end-of-pipe approach to environmental protection -- as well as a good grasp of the cross-media implications in environmental decision-making. For these and other reasons, I am committed to assuring that pollution prevention will be a guiding principle in all Agency policies and programs.

The Agency is currently commiting approximately 30 workyears throughout Headquarters and the Regional Offices to this effort, as well as $3M in contract funds and $7M in state multi-media grant funds. In addition to these "dedicated" funds, there is great enthusiasm for the approach among Agency's staff and many more personnel are looking for, finding, and implementing this philosophy in their work.

As the development and implementation of a viable, cross-media Pollution Prevention Program continues, I anticipate resource needs will increase. I also believe that some of this additional demand will be met through integrating pollution prevention implementation strategies into media-specific, funded initiatives and into efforts supported by the private sector. Of course, I intend to take a comprehensive look at the emerging environmental challenges and adjust our priorities and resource commitments as appropriate.

COASTAL POLLUTION

Question: Will President Bush and you make cleaning up our coasts a priority?
What do you plan to do to address this problem?

Answer: The Environmental Protection Agency (EPA) perceives the degradation and loss of our coastal and marine resources to be one of the most critical environmental issues that our Nation currently faces. In response to this, EPA has developed a National Coastal and Marine Policy (NCMP) to identify and prescribe actions to protect, restore and maintain the health of our coastal and marine waters. This policy contains goals for: recovering full use of our coastal beaches and waters; restoring and protecting all living marine resources; minimizing the use of oceans for waste disposal; improving the scientific understanding of the impacts of pollution on the marine environment; and promoting international efforts to protect the oceans.

The policy's effective implementation will involve a number of elements. First, EPA needs to "get its own house in order" and identify, within existing authorities, what specific actions we can take to achieve the policy's goals. Second, we need to communicate with other Federal agencies to develop a coordinated Federal policy and associated action plan. EPA has initiated communications with other Federal agencies asking for their support and commitment for a truly national policy to protect our coastal and marine resources. The initial response is favorable, and we are expecting to convene an interagency workgroup in the near future to jointly review our policy and develop a Federal interagency policy. And further, because the policy contains mandates that go well beyond the Federal government's authorities and capabilities, we need to establish partnerships between Federal agencies, State and local governments, interest groups, and the public to develop a comprehensive national agenda for the protection of our coastal and marine resources.

The NCMP was issued as an interim EPA policy on January 18, 1989. With its issuance, EPA program directors are beginning to develop action plans to achieve those goals and objectives of the policy that are within EPA's purview. These action plans will highlight areas where program offices can target their efforts to increase the level of protection awarded to our coastal and marine resources.

Further actions include:

- Planning for a National Land Use Forum to examine the impacts of land use practices on water quality, and to review the roles and responsibilities of governments in public and private land use management.

- Planning for a Coastal Science Experts Forum, comprised of scientists from government, academia, and private and non-profit institutions, to draw up a Federal agenda for the research needed to support the improved protection of our coastline and marine resources.

I plan to meet with the Office of Water to go over the Interim Policy in the very near future, to see what more needs to be done within the Agency and with the States and other Federal agencies.

Question: Will you ask President Bush to increase funding for sewer treatment?

Answer: The President has not made a decision at this time on whether to ask for any additional resources over and above those contained in the 1990 budget recently submitted to Congress. Therefore, I am not able at this time to make any commitment to you on funding over and above the $1.2 billion currently in the President's Budget.

Q. Recent reports suggest Texas Eastern is under consideration for acquisition. In the event of such an acquisition, will all the obligations facing Texas Eastern with respect to the PCB-related cleanup and any liability related to this matter be binding on Texas Eastern or any entities acquiring the company? What steps will you take to assure that such obligations are fulfilled, and that a comprehensive and rigorous cleanup occurs?

A. Under the provisions of the Consent Decree, lodged with the U.S. District Court for the Southern District of Texas, the obligations for clean up under the Decree are binding on "Texas Eastern, its ... successors and assigns ..." Therefore, under the Decree, both Texas Eastern and any purchaser, as a successor, are jointly liable for meeting the requirements on the Decree.

Under the Texas Eastern Decree, the United States is provided the opportunity and authority to oversee the activities of Texas Eastern. Specific provisions of the Decree guarantee site access, record preservation, and a quality assurance program for environmental sampling. In addition, in an innovative provision, the Decree requires Texas Eastern to establish a fund of up to $18 million to reimburse EPA for its oversight costs and that of its oversight contractor. EPA has already established a full-time government employee contact within the Office of Toxic Substances to oversee, in conjunction with EPA's hazard waste staff, implementation of the remedial activities of the Consent Decree.

Q. A report by the Subcommittee on Superfund and Environmental Oversight on the Texas Eastern matter recommended the unification of the Agency's technical and legal staffs into one enforcement office. What are your views on this unification proposal?

A. I believe that it is important for the Agency to have an effective enforcement organization. The Agency has utilized a number of different organizational arrangements during its history, each of which has its own strengths. The record breaking enforcement levels over the past three years show that the current organization has been effective. However, given the importance of a strong enforcement program, I have no hesitation in committing to explore various organizational alternatives, including unification of the Agency's technical and legal staff, to assure that the Agency's enforcement organization is the most effective it can be.

Q. There has been much debate between the previous Administration and the Congress on EPA enforcement powers against Federal facilities failing to comply with the nation's environmental laws. Do you envision some modification from the previous Administration's restrictive view on such powers, and will you work with the Justice Department to clarify and strengthen EPA's enforcement powers, including unilateral order authority, with respect to Federal installations?

A. While EPA certainly needs to have the authority to enforce the environmental laws at Federal facilities, I recognize that differences of opinion exist as to the extent of EPA's current authorities for Federal facility enforcement and the adequacy of those authorities. In my view, for the most part, EPA's current authorities seem sufficient to ensure compliance by Federal facilities. I also understand that there may be certain Constitutional as well as statutory constraints on EPA enforcement against facilities of other Executive Branch agencies. In addition, the practical limitations posed by the Federal budget and appropriations process sometimes cannot be addressed adequately in a judicial forum. However, the procedures EPA has established in its Federal Facilities Compliance Strategy for issuance of proposed orders and strict escalation timeframes for dispute resolution appear to provide an adequate basis for enforcement of most Federal facilities violations. This is an issue I may need to look into further, working with the Department of Justice as necessary.

Asbestos

Q. Last year, Congress extended the deadline under the Asbestos Hazard Emergency Response Act (AHERA) for schools to submit their asbestos management plans. Do you see compliance with this mandate as a priority of the Agency?

A. EPA considers compliance with the Asbestos Hazard Emergency Response Act (AHERA) to be a high priority for the Agency. With an estimated 80 percent compliance rate to date, we will focus our initial enforcement efforts on the 20% of school districts that have not yet developed management plans. We have designed a two-stage approach that will first notify these school districts of their noncompliance with the law, offer technical assistance as needed, and follow up with a penalty for failure to comply within 60 days. For this, and for achieving compliance with other elements of AHERA, we believe we have both a very strong regional assistance and enforcement strategy in place to achieve full compliance with the law.

Senator Lieberman

QUESTION:

The Section 404 Clean Water Act program for protecting wetlands, rivers and coastal waters has been our most effective means to date of stemming the loss of aquatic resources through filling for development. The Conservation Foundation, when you were its president, organized a National Wetlands Policy Forum which recommended certain changes in that program.
Implementing some of those changes would seriously undermine the 404 program, some environmentalists say -- for example:
(1) Taking EPA out of the 404 permit review process and increasing the role of the states,
(2) Undue reliance on mitigation for non-water-dependent filling (e.g., for shopping centers).
Where do you stand on these proposals, and what would you expect to do about this at EPA?

ANSWER:

I agree that the Section 404 program, albeit not a comprehensive wetlands protection program, has been the most effective Federal regulatory program for protecting wetlands and our Nation's other aquatic resources. EPA certainly intends to continue to implement its responsibilities under that program to the fullest in order to protect those valuable resources. However, in recognition of the fact that the Section 404 program alone can not fully address losses of wetlands and other aquatic ecosystems, EPA requested the Conservation Foundation to convene the National Wetlands Policy Forum to address this issue on a broader scale, with representatives of all levels of government and the affected private and public interests. EPA has already indicated its intent to implement many of the Forum's recommendations, and in fact has recently released a "Wetlands Action Plan" in response to the Forum's recommendations. The Agency believes that the Forum recommendations, if fully implemented, could significantly improve the protection of wetlands and other aquatic ecosystems throughout the country. In fact, some of the recommendations of the Forum addressed amendments to the Section 404 program to make it more comprehensive and effective . Further, I believe that all of the Forum's recommendations could be implemented to support, but not undermine, the existing Section 404 program. I can certainly assure you that EPA will do everything within its authorities to ensure that implementation of the Forum's recommendations is in no way used to evade or override statutory or regulatory requirements now in effect.

With respect to the specific issues you raise:

(1) I do support delegation of Section 404 programs to the States, and would work to assist States to develop assumable programs. However, I would favor delegation only in those situations where the State program extends coverage to all waters of the State, including all wetlands regulated by the Clean Water Act; where the scope of activities regulated is at least as inclusive as that regulated by the Federal program; where opportunities for public involvement are provided; and where environmental standards are as high as those imposed at the Federal level. These conditions are consistent with the law and with the principles of sound Federal/State relationships. Of course, to be approvable, a specific application from a State would also have to comply with other requirements of the law and regulation. I would also like to note that the Forum recommendations included maintaining EPA oversight of State programs, through programmatic reviews, review of individual permits where appropriate, and the use of Section 404(c), when necessary. I would not support delegation to the States without adequate oversight to ensure that the Clean Water Act is appropriately implemented.

(2) The Forum recommendations did focus quite a bit on mitigation, particularly as a means to achieving the Forum's goal of no net loss of wetlands. In the Action Plan, EPA adopted the goal of achieving no overall net loss of the nation's remaining wetlands base, and where feasible, increasing the quantity and quality of the Nation's remaining wetlands resource base. EPA recognizes that the goal of no net loss will require the use of some mitigation. However, in the context of the Section 404 program, this does not mean that EPA stands ready to trade natural wetlands for those that are restored or created -- the first step is to avoid impacts to wetlands whenever feasible. We will continue to take the position that mitigation under the Section 404(b)(1) Guidelines follow a sequence of avoidance of wetlands impacts first, then minimization of impacts, then lastly, compensatory mitigation for unavoidable impacts. I would like to note that the Forum did recommend that mitigation follow such a sequence. In addition, we will continue to use our authorities to fully implement the Guidelines' requirement that the presumption regarding alternatives to non-water-dependent activities be adequately rebutted before a permit can be issued. Again, I would like to emphasize that nothing in the Forum's recommendations should be used to override existing statutory or regulatory requirements, and EPA will certainly implement those recommendations so as to supplement, not undermine, those requirements.

Senator Lieberman

Q. Of the more than 66,000+ chemicals EPA is responsible for controlling under Toxic Substances Control Act, EPA has required testing for only a handful of chemicals and has acted to control only five found to pose unreasonable risk to public health.

Also, a 1984 National Academy of Sciences study indicated that we do not have sufficient data to assess the health risk of over 90 percent of those 66,000+ chemicals. Given the wide disparity between the work to be done and the work to date, how would you propose to speed up action on these chemicals to ensure protection of the public? Under current resource levels, how long will it take to get the necessary health risk information and control dangerous chemicals?

Answer:

Information on the hazard potential of chemicals now in use is vitally important to setting priorities for regulation and for decisions on the degree of control necessary. Decision makers at EPA constantly are faced with making decision on regulation of toxic chemicals in the face of uncertainties regarding the effects of these chemicals on health and the environment. There is no instant solution to this problem, but an increase in the number of chemicals tested for effects is in order.

There are a number of opportunities for increasing the volume of testing which I will ask the EPA staff to pursue aggressively. These include:

--Streamlining the regulatory process under TSCA so that more testing can be mandated or negotiated with chemical manufacturers using EPA's skilled manpower resources.

--Vigorously pursuing a concept currently being proposed by the OECD Secretariat for an international testing program which would screen high volume chemicals for health effects.

--Working closely with ATSDR in developing and implementing the testing program mandated by Section 110 of SARA for chemicals found around Superfund sites.

--Identifying cases where generic test rules, rather than chemical-by-chemical test rules can be promulgated to require testing on a broad range of chemicals for certain designated effects.

All of these efforts, when combined, should make a dramatic difference in the amount of information available to decision makers in the future on the health and environmental effects of chemicals now in commerce.

Senator Lieberman

QUESTION:

The funding pattern in your FY90 budget shows a slight increase, 7.5% above the FY89 level, for water quality work. However, the budget also shows that 4 new estuaries will be added to the 12 already covered by the National Estuary Program, a workload increase of 25%. Will the support for the Long Island project be maintained during this crucial final phase in spite of this discrepency between resources and workload?

ANSWER:

The FY90 budget maintains the current level of funding for the Long Island Sound Project. The funds provided will support the development of the Comprehensive Conservation and Management Plan (the Plan) as required by section 320 of the Clean Water Act. The Plan will outline the actions that need to be taken to address the pollution and living resource problems facing Long Island Sound. The funding identified for the Long Island Sound Project should be adequate for this phase because the more costly scientific studies that help us determine what actions to take will be completed.

The addition of four new estuary programs to the National Estuary Program in FY90 affects resources in two ways. The effect on funding is minimal because the first year of a new estuary program involves a low level of funding. In the first year, the Agency provides funds to get organized and conduct workshops to educate program participants. The second effect is on personnel. With the requested increase in personnel, each of the EPA Regional Offices will be adequately staffed to conduct these programs in FY90.

QUESTION: What can you tell us about the committment that EPA will make to correcting the environmental problems associated with the Long Island Sound subsequent to the completion of the study project in 1991?

ANSWER: Section 320 of the Clean Water Act (the Act) provides that the Comprehensive Conservation and Management Plan (the Plan) developed by the convened Management Conference is to be approved by the Governors of the States and the EPA Administrator. After the Plan is approved, the Conference is directed to develop Implementation Plans, monitor the effectiveness of the actions taken, and review Federal activities in the watershed for consistency with the approved Plan. Under the Act, funds to assist the States in implementation of the Plan are to be provided by titles II and VI and section 319 of the Act. These are funds for construction grants, state revolving funds, and nonpoint source pollution abatement and control.

EPA is a member of the convened Management Conference and will continue to serve as a member of the Conference after 1991. To the extent, the Plan developed by the Conference identifies actions to be taken by the Agency to address problems in Long Island Sound, we are committed to their implementation.

Senator Lieberman

Question: The number of sources of water pollution discharging directly into streams has doubled, sources polluting indirectly or threatening ground water have been added to Water Program responsibilities, and responsibility for regulating five relatively simple pollutants has been expanded to regulation of hundreds. Yet, during the 1981 - 1989 period, programs under the Clean Water Act lost 43 percent of their purchasing power from 1981 - 1989. Can you take on nonpoint source control and all these other new responsibilities and still manage the core National Pollutant Discharge Elimination System (NPDES) permits without a major budget restoration?

Answer: Managing our base NPDES program in conjunction with new responsibilities in light of reduced Federal funding (as a result of the phase-out of the Federal Construction Grants program and its set-aside provisions) is certainly one of the biggest shallenges facing water programs today. However, EPA and the States share responsibility for implementation of water programs. There are currently 39 States that are approved to administer the NPDES program, compared to 33 at the beginning of the decade, which accounts for some of the reduced need in Federal funding to support NPDES activities. While the Water Quality Act (WQA) amendments produced an increased workload for both EPA and the States in the NPDES program, EPA and the States did receive some supplemental funding of to carry out these tasks.

In terms of nonpoint source (NPS), the WQA gave States the lead responsibility for developing and implementing assessments of waters impaired by NPS pollution and State NPS Management Programs to address those problems. EPA made available to States ample funding under section 205(j)(5) for "development" activities (a total of $46.3 million in FY 1987 - 1989 funds). States are now submitting their completed assessments and management programs for EPA review and approval, after which they become eligible for "implementation" funding. Only three States are currently eligible for implementation funding (South Dakota, Delaware, and Nebraska). Two of these States (Delaware and South Dakota) are using section 201(g)(1) construction grant funds for NPS implementation activities, as authorized by the 1987 amendments.

In anticipation of full State implementation efforts in FY 1990, our FY 1990 budget request does earmark some State grant funding and EPA contract dollars to assist States in their overall NPS pollution efforts ($7 million in section 106 State grants, over $6 million in section 205(j)(5) State grants, and $1.750 million in EPA funds).

In addition, in the case of nonpoint sources, EPA recognizes that NPS needs are too great to rely solely on EPA funding. EPA has recently completed a Nonpoint Sources: Agenda for the Future, which sets forth a five-year action plan for the National NPS program. The Agenda encourages cooperation among Federal and State Agencies to leverage funding and program support for NPS efforts. In particular, given the magnitude of the problem of agricultural NPS pollution, EPA is working closely with USDA on its efforts to target more conservation funds, programs, and field staff to water quality needs identified by the States in their Management Programs (known as the USDA Water Quality Initiative). The Agenda also encourages States to devote more State and local funding and efforts to nonpoint source efforts because of the inherently local nature of the NPS problem and the implications for local land use and development decisions.

Finally, in anticipation of the loss of State funding from "set-asides" as a result of the phase out of the Construction Grants Program, EPA is currently completing a State funding study that examines overall State water pollution control funding needs. The study will produce a basic publication that outlines the problem, analyze detailed alternative State funding mechanisms, and present options to mitigate the funding gap. I will carefully review the results of that study this Spring, and consider its findings as we develop our FY 1991 budget proposal.

Senator Lieberman

Question: I have supported the Senate resolution rejecting President Reagan's FY 1990 budget proposal which reduces the funding level for construction of sewage treatment plants to $1.2 billion. I have also written President Bush urging him to increase the amount of money available for this work. Can you explain how this nations clean water goals can be achieved at the level of funding proposed by President Reagan or will you seek to have these funds increased?

Answer: The 1990 President's Budget includes $1.2 billion for the Construction Grants appropriation, of which $800 million is for State Revolving Funds and $400 million is for construction grants. This represents a reduction of $750 million from the 1989 appropriated level.

The following points summarize the rationale for the Administration's request:

- Since 1972, EPA has provided financial assistance totaling $50 billion in over 15,000 grants for the construction of municipal wastewater treatment facilities.
- In the Water Quality Act of 1987, Congress reauthorized the program and provided for its phaseout. Construction grants were reauthorized through 1990 and Capitalization grants for new State Revolving Funds were authorized through 1984, with a total funding authorization of $18 billion for 1986-94.
- It has been the Administration's position since 1986 that new funds for the 1986-94 reauthorization period should be limited to $12 billion, rather than the $18 billion authorized in the amended Clean Water Act.
- New funding of $1.2 billion in 1990 is consistent with the President's $12 billion phaseout of this program. In addition, current budgetary constraints, including the Gramm-Rudman-Hollings Act, make full funding of this program ($2.4 billion) extremely problematic.
- President Bush has made no commitment at this time to increase the funding levels contained in the President's Budget.

Senator Lieberman

QUESTION

The creation of efficient regulations requires a mix of interdisciplinary talent. In the past EPA has been criticized because of a deficiency in technical capability which necessitated an over reliance on outside contractor support thus creating a situation where the contractor is the de facto regulator. What are your views on the appropriate mix of personnel for a regulatory agency and what steps will you take to achieve the necessary balance?

ANSWER

Over the past several years, EPA has been on the cutting edge of environmental change with the enactment and expansion of major environmental legislation. EPA's recruitment efforts are targeted toward identifying and attracting the "best and brightest" of this nation's scientific and technical community. To date, we have strengthened our competitive edge by developing a strong human resources program built around not only attracting the best, but also developing, rewarding and retaining them. As a matter of course, the issue you raise is one we are reviewing at all stages of the contracting process to ensure that the work we do in the areas of our statutory responsibilities do not involve the use of contractors where that would be improper. As a regulatory agency, we recognize that the job of writing environmental regulations is clearly ours. We do, however, recognize the appropriate mix of personnel for a regulatory agency is ever-changing, with one constant being that our EPA contract managers must be at least as knowledgeable and capable as the contractors they monitor. EPA is committed to a strong and aggressive human resources program as we strive to meet the environmental challenges of the future.

Senator Lieberman

Question: GAO, in its November 1988 report on EPA issues, was critical of the agency's management approach which generally is to measure success in terms of accomplishing program activity rather than emphasizing measurable environmental results. What are your views on EPA's ability to move in the direction of management measures which link resources and activity to actual improvements in environmental conditions which can be understood and appreciated?

Answer: I believe that the agency is ready to respond to the GAO recommendations. Among other conclusions, GAO found that the agency did not have a way to relate its program activity to indicators of environmental results, and suggested more work to develop such indicators. GAO also recommended a better way to set long-term goals and to link planning with budgets more effectively.

I understand that the agency is making progress in linking program management to results. Most programs are already developing environmental indicators and I will see that progress is made this year. I am aware that EPA's Region 10 is now operating a management system which has successfully related program activity to environmental conditions.

Since changes in environmental conditions usually occur over long periods, the agency needs a set of environmental indicators, and a monitoring and central data management system to back it up, which would provide a stable reference point for evaluating the longer term effectiveness of programs. These data and indicators would help the agency set measurable environmental goals as well, so that short term program activity --which the agency tracks very well-- can be associated with bottom-line environmental results.

GAO provided a useful framework for organizing and collecting management and environmental data, and made a particular point about the need to define how the measures were going to be used. I agree with the recommendation and intend to see that we do so over the coming year. In terms of how the measures will be used, such a system could enable the agency to be more strategic in its planning and goal setting, as well as assist the Congress in dealing with future legislative issues.

Senator Lieberman

Question: OMB has had a very active role, through the Regulatory Relief Task Force, in controlling the content of EPA regulations. Their approach has been to substantially weaken EPA's draft regulations, and to delay issuance of regulations. Assuming that OMB continues the role and policy it has taken on regulating issues, what will your reaction be? How will you reestablish EPA's position as an independent regulatory agency--what will be your position on OMB involvement in the regulatory process?

Answer: As part of the Executive Office of the President, OMB has a legitimate role to play in ensuring consistency across the government on regulatory policy issues. Executive Order 12291 establishes OMB's right and responsibility to review proposed and final rules before they are published. OMB plays an important and necessary role.

At the same time, I take seriously the responsibilities of the EPA Administrator to meet the Agency's statutory obligations. The Executive Order clearly recognizes this. So while I intend to cooperate with and benefit from OMB review, I will be guided by my own best judgment in decisions about regulatory actions.

I intend to work with the OMB director to establish an effective working relationship that recognizes OMB's role as well as EPA's obligations. We need to agree on a process for identifying issues and resolving them--including a process for timely elevation of issues when necessary.

QUESTION:

S. 203 is the same as the Senate version of H.R. 791 which passed the Senate last year; a different version passed the House. As you know, we are facing very serious problems with declining groundwater quality. The bill provides for research to try to ascertain the extent of our problem and develop ways to solve it. Will EPA support this legislation this year?

ANSWER:

Increasing federal ground-water research efforts would I believe, be useful. Currently, the Agency is conducting high quality, much needed research in the ground-water control technology area, and SARA provided EPA with a large mandate for increased ground-water related research efforts. As soon as I am confirmed, I intend to review the current House and Senate research bills to see how they relate to the Agency's current activities.

Clearly, research is a vital component of an overall ground-water protection policy. However, by itself it is only a first step. My concern with the type of research legislation that was introduced last Congress, is that moving forward with other elements of a national ground-water protection policy may be postponed at the expensive of increased research. To do so, may put us in a position of confirming after the fact, how seriously we had contaminated the resource.

Senator Lieberman

Q. Solid waste issues are looming as a major problem for municipalities in the northeast which are running out of landfill options and see perils with the alternative of incineration. Your FY 1990 budget shows an increase of only about 3% in the important area of hazardous waste and the personnel to do this work are simultaneously being reduced. How can you reconcile this budgetary approach with the magnitude of this impending crisis?

A. EPA has taken substantial regulatory initiaties to implement the hazardous waste provisions of the 1984 RCRA Amendments. Many of these new program requirements such as corrective action, land disposal restrictions, and minimum technology requirements are still relatively new. We need some time to see them in operation and evaluate their long-term effectiveness and their impact on hazardous waste generating and management practices. In addition, over the last year EPA has taken the initiative to develop a solid waste strategy which defines the Federal role in solid waste management, and lays out the actions that the Agency will undertake. In general, the resource levels in the President's FY 1990 budget will allow us to follow through on the activities the Agency is commited to in the budget and to evaluate the impact of new program requirements. I will carefully monitor the progress we are making in the hazardous and solid waste areas over the next months with a view to assessing EPA's resource needs for FY 1991 and beyond.

Q. As a follow-up on the solid waste issue, what do you feel EPA's responsibility is in taking a leadership role in source reduction to attempt to limit the quantities of material entering the municipal waste streams which cannot be recycled or disposed of in an environmentally sound way.

A. EPA should play a leadership role to promote products that are designed for safe recycling, landfilling and incineration. Where toxic components of products are not necessary and could be problematic, they should not be in products. I would note, however, that toxic substances are sometimes essential components in some products. EPA should help assure substitution where that is practical and should also help assure that recycling and other waste management tools are used in a manner that does not present any undue risks to human health and the environment.

Senator Lieberman

Question : Examining some specific areas of the EPA budget over the last decade, it is seen that the agency has lost 25% of its real purchasing power for programs dealing with air quality and 24% of its staff. For water quality the current situation is even worse, purchasing power is down by 43% and staff personnel have been reduced by 40% since 1981. These statistics are indicative of a trend which has occurred during the past administration which is appalling to those of us who feel strongly about the quality of our environment. What do you intend to do about the increasing gap between EPA's mission and responsibilities and the resources to do this important work?

Answer: We are aware that the increasing gap between EPA's mission and responsibilities and the resources to do this important work is a serious issue. Needs and expectations for environmental protection are growing. Meanwhile, budgetary constraints, changes in the tax laws, and increasing demands on States and localities in all service areas limit traditional funding sources.

There are a number of Agency-wide initiatives designed to bridge the gap between expectations and the ability to meet needs, promote greater cooperation between EPA and the environmental community, and encourage the use of innovative technologies. For example:

- Our Public-Private Partnerships initiative is directed at increasing the private sector role in helping to provide environmental services and reducing impediments to private sector investment in the environmental infrastructure.
- Our Alternative Financing initiative encourages States and local governments to utilize funding mechanisms other than general appropriations or federal grants to raise revenues.
- Our Technology Transfer/Cooperative Environmental Management initiative seeks to provide States and localities with the technical tools and innovative analytic and management information they need in solving environmental problems.
- Our Technology Development initiative seeks to stimulate the development of new techniques and technologies to provide more effective cleanup or to reduce the cost of compliance.
- Our Legislative/Regulatory Development initiative intends to provide the State, local, and private sectors with a greater array of regulatory options and alternatives and to reduce the difficulties of compliance, while at the same time preserving environmental standards.
- Our Outreach initiative strives to increase the involvement of all relevant parties in EPA decision-making.

- **Our Pollution Prevention initiative seeks to reduce threats posed by environmental pollution by promoting an integrated environmental ethic stressing the prevention of pollution before it becomes a problem.**

The Agency has already taken action to begin implementing these initiatives. I plan to continue with these efforts and also pursue other alternatives that may be available to bridge the gap between environmental needs and expectations and available resources.

Question:

I understand that your predecessor, Mr. Thomas, attempted to obtain OMB clearance for proposed regulations dealing with onboard refueling of automobiles during the last days of his tenure. The proposed regulations would impose standards on the volatility of gasoline which are less stringent than those which are now under consideration by a number of northeast states including Connecticut. In my view the regulation should be promptly issued, but the ability of states that want to impose stricter standards must be respected. Do you intend to consider the position of the states in this matter?

Response:

EPA's proposed rulemaking (August 1987) on fuel volatility involves a nationwide program to reduce in two stages the volatility of gasoline in the summer months. We currently have a final rule at OMB for the first stage reduction that would take effect this coming summer. When EPA finalizes this rule, individual states that now have or plan to have more stringent volatility requirements will be preempted under the Clean Air Act from imposing their own rules. However, the Act permits EPA to waive this preemption for a state that determines through its State Implementation Plan (SIP) that the control is necessary to achieve attainment of the air quality standards. We are working with those states (mostly in the Northeast) that are interested in obtaining such waivers to ensure expeditious review and processing of their SIP revisions as quickly as possible.

Senator Lieberman

Q. Current technology, employing scrubbers or using lower sulfur coal, will help reduce SO2 emissions but does nothing to reduce the nitrogen oxide emissions. The solution to his problem appears to require the adoption of new technology. What will the NAPAP tell us about the necessity of adopting this new technology?

Answer: NAPAP will include a review of the current state of knowledge on the effects of emissions of nitrogen oxides. Although nitrogen oxides(NOx) do play a role in the acidification of aquatic systems, particularly with respect to episodes, and do degrade visibility, they do not appear to play as significant a role as sulfur oxides. Furthermore, nitrogen oxides can be a soil nutrient and do play a complex role in the formation of oxidants, i.e. in some circumstances, reducing NOx may increase ozone. At this time it appears prudent to at least stop the growth in NOx emissions, and I am continuing to review the need to reduce NOx emissions.

Regarding NOx control technologies, there are several existing methods and several that will be demonstrated through the Clean Coal Technology Program. Low NOx burners and controlling excess air are methods to reduce NOx emissions that have been proven on boilers in this country.. Methods being demostrated through the CCT Program include: circulating fluidized bed, pressurized fluidized bed, gas and coal reburning, integrated coal gasification combined cycle, selective catalytic reduction, and SOx-NOx-particulate post-combustion flue gas cleanup, as well as advanced combustion techniques for wall-fired and tangentially-fired boilers.

SENATOR LOTT

Q. There is a group in Washington who call themselves the Hazardous Waste Treatment Council. It is my experience that they try to use government processes to put their competitors out of business, and that they challenge new technologies which really might make a contribution toward resolving America's hazardous waste nightmare.

A company called Marine Shale Processors, in Louisiana, claims to have come up with a new technology that they feel does make a positive contribution in this arena. I do not know whether or not it does, but I do know that the Hazardous Waste Treatment Council has worked long and hard to put Marine Shale out of business. In fact, the Council raised enough commotion that EPA has been investigating Marine Shale for two years. I am requesting that you, yourself, look into this matter, personally visit this new technology, and report back to me on it 90 days after you have been confirmed. Will you agree to do that?

A. I intend to be fully briefed on the Marine Shale matter as soon as possible. I will report back to you as soon as I have had that briefing.

SENATOR MITCHELL

NATIONAL GROUND-WATER PROTECTION LEGISLATION

QUESTION:

In 1986, your organization published a major report on the problem of ground water pollution. The report recommends that Congress enact national ground water legislation with a goal of protection --

> "the physical, chemical and biological integrity of the nation's ground water resources and ensure that they are not degraded in any way that may be harmful to humans or the environment....."

The report also calls for a State/Federal partnership to protect ground water stating --

> "We recommend that the federal statute which establishes a national ground water protection goal require the states to enact programs to achieve that goal."

If this Committee were to develop comprehensive legislation for the protection of ground water which stated the goal of nondegradation of ground water and which required the States to enact programs to achieve that goal, would you support such legislation?

ANSWER:

I will be looking into the issue of comprehensive ground-water protection legislation as soon as I am confirmed, and I certainly look forward to working with your Committee on this issue.

As in EPA's current ground-water protection policy, I believe the States should play the major role in protecting the ground-water resource. Ensuring that States develop and implement rigorous and comprehensive protection programs is critical to protecting the resource -- as you point out, the National Groundwater Policy Forum and other organizations have recommended a national program in which we require States to develop programs.

The main question for EPA to address is how the federal government should be involved in State protection programs. A strong federal role is vital, and EPA needs to start thinking about issues such as to what extent the Agency should fund or compel State programs. Unfortunately, EPA has been constrained in the amount of resources it has available to assist States in this area.

Establishing a national goal to protect the resource is an important step towards more responsible management of this critical and vulnerable resource as well -- the quality of the nation's ground-water resource has major implications for public health and the environment. Clearly, we must recognize this in national policy.

As you point out, the National Groundwater Policy Forum developed a specific goal and I believe other organizations have as well. The Forum goal, however, is not a nondegradation goal -- it does not state that there will be no degradation. The Forum's goal relates degradation to potential effects on human health and the environment, which is comparable to the position EPA has taken in the past.

A nondegradation goal for ground water is appealing, similar goals have been put forth in many of our environmental statutes, including the Clean Water Act. Unfortunately, however, the reality has been that we have not been able to implement a nondegradation goal -- this has been particularly true in our ground-water related statutes because of the extremely high costs and sometimes ineffectiveness of cleanup technologies. Further, releases of contaminants to ground water can originate from such ubiquitous sources as septic tanks, sewer lines, residential lawns, farm land and transportation corridors. Realistically, it would be extremely expensive for society, if not impossible technologically, to identify and eliminate all such releases to ground water, a requirement of a nondegradation goal.

While I do not oppose a nondegradation goal, I believe the existing economic and technological realities need to be considered in developing national ground-water policy. I think it is also important to realize that the current debate over what goal to set for our ground-water efforts is overshadowing the real work and the crucial issues that must be addressed in ground-water policy. Most ground-water protection activities are not standard dependent -- rarely do we have the ability to predict where a certain emission or contaminant will go in ground water or in what concentrations -- as a result, other efforts such as technology based standards, best management practices, and land use controls in vulnerable and valuable areas are more effective.

I am looking forward to working with you on setting a national goal, but more importantly on moving beyond the issue to developing an effective policy for protecting this resource.

MUNICIPAL SEWAGE TREATMENT AND NONPOINT SOURCE CONTROL

Question: The Conservation Foundation has played an important role in supporting and developing clean water programs. In your recent report State of the Environment -- A View to the 1990's you specifically highlighted two major, remaining water quality problems -- continuing pollution from municipal sewage treatment plants and pollution attributable to nonpoint sources of pollution.

I agree that these are major problem areas. This Committee developed response programs as part of the Clean Water Act amendments. Unfortunately, the FY 1990 budget for the Agency you plan to lead provides for zero funding for grants to States for control of nonpoint pollution (the Act authorizes $100 million in FY 1990) and provides for only half of the $2.4 billion authorized for grants and loans for construction of municipal sewage treatment plants.

This dramatic underfunding of Clean Water programs raises serious doubt about our continued progress in reducing water pollution. Do you agree that municipal sewage discharges and nonpoint pollution are serious sources of water pollution.

Answer: Yes. In fact nonpoint source is probably the most significant remaining problem in the water area.

Question: Do you agree that solving these problems will require a joint effort by the Federal government and other parties and that the Federal government has a responsibility to contribute some resources to these efforts?

Answer: Yes. I believe that Federal as well as State and local governments all have an important part to play in resolving these problems. I also believe, however, that the Federal government should not be looked to for providing a continuing major funding source in solving these problems. In the wastewater treatment area, it is my belief that Congress did not intend the Construction Grants program to exist ad infinitum. The Federal government has already provided over $50 billion in wastewater treatment grants and both the Congress and the Administration believe that the time has come to return the program to the States and localities. Through the State revolving loan fund program (SRF), we are working with the States seeking to develop a long-term sustainable source of funds for wastewater treatment.

In the nonpoint source area, Federal funds will cover only a fraction of the work that needs to be done. Thus, much of the financial burden will fall on the shoulders of State and local governments. Many State and local governments have already taken the lead in funding self-sufficient forms of financing as well as creative new ways to fund nonpoint source controls. Examples include taxes, users fees, permit development fees, and others. EPA will continue to provide limited funding, mainly through grants under Sections 106 and 205(j)(5) of the Water Quality Act and use of State Revolving Loan Funds. In addition, we will support State and local efforts to devise their own funding mechanisms through such mechanisms as a central clearinghouse for innovative State and local funding ideas.

Question: How do you reconcile the seriousness of these problems with the limited Federal commitment to address them?

Answer: I don't accept that the seriousness of a problem is necessarily measured by the extent of Federal financial support offered. I believe that many solutions are best left to State and local leadership and a demonstrated willingness by these levels of government, and an aware citizenry, to accept fiscal and social responsibility to address them.

Question: If confirmed, will you agree to review the past two years of implementation of the Clean Water Act amendments and provide a report back to this Committee on these funding issues and other Clean Water Act implementation issues:

Answer: I believe it is premature for me to commit to any reports until I have the opportunity to become more familiar with specific requirements and the many implementation issues surrounding the. However, you may rest assured that as a part of my ongoing duties, I will assess the Agency's progress in implementing all of its statutes and keep members of the Committee up to date on our progress.

1. Do you support the adoption of a national policy of no overall net loss of wetlands?

2. If so, what steps would you envision taking as Administrator to ensure that we actually realize this admirable goal?

Answer:
1. I fully support the goal of no net loss for this nation's wetlands. In addition, I support a long term goal to increase the quantity and quality of the nation's wetlands where feasible. This goal was developed through the consensus process of the National Wetlands Policy Forum. In addition, the President has made this goal an objective for his incoming administration.

2. Although the goal will be a challenge to obtain, there are many potential steps which can move us forward. One such step is to revise the Executive Order on Wetlands (11990) to reflect the goal and many of the recommendations of the National Wetlands Policy Forum if the President decides to take that course of action. Another step is to make many of the legislative changes needed to translate this policy into action (including changes to the Section 404 Clean Water Act to improve its effectiveness to protect wetlands).

As Administrator, I would evaluate the effectiveness of the Agency's Wetlands Action Plan and direct revisions as needed to set the long-term agenda to establish a more complete response to the Forum's recommendations. I would also direct my immediate attention to ensure some of the key elements of the plan move forward. For example, I would work on the development of a joint mitigation policy for the Section 404 program with the Department of Army. In addition, I would take a leadership position in working with other federal and state agencies to encourage and support their efforts to incorporate wetlands into their programs and actions.

Senator Mitchell

Sulfur Dioxide Emissions

1. Are you aware that last April EPA claimed that the current National Ambient Air Quality Standards (NAAQS) for sulfur dioxide is protective of public health?

Yes. The EPA proposed in April 1988 to reaffirm the current ambient standards for sulfur dioxide (SO2). However, in its proposal, EPA explicitly recognized that this was a close decision and solicited comment on the alternative of adding a new 1-hour ambient standard. The EPA is currently evaluating public comment on this issue and I will carefully consider them in coming to a final decision.

2. Are you aware of the conflicting actions by the enforcement and rule-writing branches of EPA regarding the mill in Rothschild, Wisconsin?

Although I am not acquainted with the details, EPA staff are aware of the situation involving the Weyerhauser mill in Rothschild, Wisconsin. The EPA enforcement group has been working with the company to secure an agreement to install scrubbers which would eliminate high short-term peaks. I am not aware that other actions by EPA are in conflict with this.

3. Will you look at this matter and report back on what you intend to do about this serious public health situation?

Yes. As I have indicated, the EPA has not made any final decisions in this area. I would be happy to report back to you as we move towards a decision.

Questions:

Do you agree with the EPA's assessment of the serious health effects of indoor air pollution?

Do you agree that it is time to develop comprehensive legislation to protect the quality of air indoors?

Will you work with me and other members of this Committee to develop the best possible legislation to address the serious health threat from indoor air pollutants?

Answer:

As I indicated in my formal statement at my confirmation hearing, I believe that indoor air pollution is a serious environmental problem. I plan to become involved early on in assessing whether indoor air pollution -- as well as other problems which may pose potentially large public health risks but which may not currently be high on the public agenda -- are being given an appropriate degree of attention. I understand that a comprehensive Report to Congress on indoor air quality required under Section 403(e) of Title IV of SARA has just been completed by EPA staff and transmitted to the Office of Management and Budget for review. I will formally transmit the report to you as soon as possible.

I will be happy to work with you and your Committee on legislation addressing indoor air pollution.

Question

In some of your discussions of risk assessment, you have encouraged "a healthy respect for the unknown." Does this mean that policy judgements within risk assessments should always presume the greatest risk?

Response

No. To suggest a healthy respect for the unknown does not imply that policy judgments should always presume the greatest risk.

Union Chemical Superfund Site

Since May of 1987 I have been urging EPA to list the Union Chemical site in Hope, Maine as final on the National Priorities List. I have written the agency four times on this issue and have not received a satisfactory answer.

The last letter from the agency indicates that we are finally in agreement that the site should be listed. I quote:

> "In the case of Union Chemical, the Agency believes the owner/operator has shown an unwillingness to undertake corrective action, and that the site should be placed on the NPL."

EPA then reproposed the site on the NPL rather than making it final and promised that final action would be taken by Fall of 1989, which is an unnecessary delay by all reasonable standards.

EPA has been roundly criticized for the slow pace of cleanup at Superfund sites. The Washington Post yesterday ran a front page story on this issue. One small step of great importance in Maine would be to commit today to place this site on the National Q. Priorities List. Since we are in agreement that it should be done, will you decide today when you will list the site as final on the NPL?

A. I understand your frustration at the length of time it has taken to list the Union Chemical site; however, the Agency's current schedule is to make a final decision on this site in May 1989.

When the Union Chemical site was first proposed in April 1985, the Agency had not adopted its current policy for listing RCRA regulated sites. As you know, the Agency now lists RCRA Subtitle C facilities if the owner/operator of the facility is unable or unwilling to undertake corrective action at the site, or if the facility falls within certain RCRA categories. As you indicated, the Agency now believes the owner/operator of Union Chemical is unwilling to perform the cleanup, and that the site should be placed on the NPL.

When Union Chemical was proposed in April 1985, it was not on the basis of unwillingness. The delay in making a final decision on Union Chemical was due to the fact that we believed it was legally appropriate to repropose the site for the NPL in order to allow the public an opportunity to comment on the Agency's determination of unwillingness and the appropriateness of listing the site under the NPL/RCRA deferral policy.

It is important to note that the delay in making a final decision on the site has not affected the schedule for cleanup. An RI/FS is presently being undertaken at the site by certain potentially responsible parties. The final decision on the site will be prior to completion of the RI/FS.

QUESTION FROM SENATOR REID

QUESTION #1:

In its September 1988 report, the Research Strategies Committee of the Science Advisory Board set forth "its belief in the essential value of a strong, coordinated R&D program" that emphasizes the prevention or reduction of pollution. The Committee set forth ten recommendations to meet this goal, including the doubling of the R&D budget over the next five years. Do you think this amount is adequate?

ANSWER:

EPA's research and development program is an essential part of our Nation's environmental protection efforts. I will review the recommendations included in the Science Advisory Board's report and will consider these recommendations when developing the Agency's long-term research strategy. Better science and technology are key to understanding and addressing environmental problems.

While I support a strong research program, I would like to review the Agency's current base program and plans in detail before commenting on specific budgetary requirements. I assure you that I will be guided by the needs of Congress, Federal agencies, and the public for enhanced scientific data on America's environment.

EPA ROLE IN HIGH-LEVEL WASTE SITING

Q. What role do you foresee for the EPA in the potential siting of the nation's high-level nuclear waste repository in Nevada?

A. **EPA's present role in the siting and disposal of high-level waste in Nevada is to establish the environmental standards that specify the allowable releases of radioactive materials and exposure to the public. EPA's involvement in the actual siting will be to monitor the efforts of DOE and NRC to assure that the sites and the engineered provisions will combine to meet the EPA standards. The other involvement of EPA in the siting process will be conducted by the RCRA staff to assure that any mixed waste (mixtures of radioactive and hazardous) will meet the requirements of EPA's standards.**

QUESTION:

I am pleased to note your support for preserving our wetlands and your awareness of the critical role they play. The Stillwater Wildlife Refuge in Nevada is one of North America's most important inland staging areas for migratory birds. Located about 75 miles east of Reno, Stillwater covered more than 24,000 acres. The area has shrunk to less than 5,000 acres -- taking water quality along with it. Stillwater is now on the National Wildlife Federation's "endangered wildlife refuge list." What should the federal government's policy be for protecting the wetlands? How should EPA implement this policy?

Background:
As a result of a lawsuit over the Department of Interior's responsibilities to the Pyramid Lake Paiute Indian tribe and an endangered fish (the cui-ui), the Bureau of Reclamation was directed to improve efficiency of the Newlands irrigation project in order to preserve in-stream flows for Pyramid Lake. The irrigation project diverts water from the Truckee River upstream from Stillwater Wildlife Refuge. The Refuge is dependent upon the agricultural return drainage from the Newlands irrigation project and improving irrigation efficiency threatens to dry up 18,000 acres of wetlands at the Refuge. However, this irrigation return flow is heavily polluted with selenium, boron, and arsenic which are causing fish and bird mortality and bird deformities.

The Bureau of Reclamation prepared an Environmental Impact Statement for new operating criteria and procedures for Newlands that EPA's Region 9 felt inadequately considered wetland impact. The Bureau of Reclamation agreed to reconsider alternatives.

Subsequently, Congress directed emergency releases of water for Stillwater and ordered a detailed study of long-term options including acquisition of water rights for Stillwater Wildlife Refuge from farmers willing to sell.

ANSWER:

The issues surrounding the decline of wetlands at the Stillwater Wildlife Refuge are very complex. However, this situation highlights a critical void in wetlands protection.

There is no national wetlands policy to factor into all federal agency actions and policies. The Clean Water Act Section 404 program currently does not adequately cover hydrological modifications such as water diversion and drainage which can have very significant impacts on wetlands. In addition, agricultural return flow is exempted from regulation under the Section 402 National Pollutant Discharge Elimination System.

The federal government needs a single wetlands policy such as the goal recommended by the National Wetlands Policy Forum -- in the short term no net loss of wetlands and in the long term to increase the quality and quantity of the nation's wetlands base--

to guide all federal policies and actions. This goal could be implemented to ensure consistency of federal actions through revisions to the Executive Order on Wetlands (11990), and in some cases through legislative changes as well. An additional vehicle for ensuring consistent protection is through the decision process used in Environmental Impact Statements.

EPA is working towards a consistent policy for wetlands and has begun by adopting the goal of the Forum to guide its own actions. Through the Clean Water Act Section 404 program, and through our work with federal, state, local and private groups, we hope to bring more consistency to actions which impact wetlands in the country.

QUESTION:

The Strategies Committee also recommended the EPA establish and fund Environmental Research Institutes to provide federal leadership in the research area. It seem to me that local research centers can play a role in this regard. What is your philosophy on the utilization of environmental research centers by EPA?

ANSWER:

I fully support the concept of research centers. Competitively selected, they provide the Agency the ability to tap the expertise of the university/scientific community to develop solutions to environmental problems.

QUESTION

Legislation has been introduced and cosponsored by members of this Committee to elevate the Environmental Protection Agency to the President's Cabinet. What are the advantages and/or disadvantages of this proposal?

ANSWER:

The main advantage of the cabinet proposal is that it will elevate the status of EPA, thus better enabling the agency yo deal with other federal agencies and with foreign nations. The main disadvantage is that it would increase the size of the cabinet. As I testified to the Committee, I personally am in favor of making EPA a cabinet department.

The Reagan FY 1990 proposed budget would reduce funding for construction of sewage treatment plants under the Clean Water Act from the $2.4 billion authorized by Congress to $1.2 billion. Would you counsel President Bush to submit a budget proposal requesting full funding for the construction grants and State revolving loan fund?

Answer: I am aware of the magnitude of costs required to construct wastewater treatment facilities still needed by communities to comply with the requirements of the Clean Water Act. It is clear that meeting this challenge will require the close cooperation of EPA, the States, and local governments. Similarly, funding required to construct needed wastewater treatment facilities must come from a combination of Federal, State and local resources.

The "Reagan FY 1990 proposed budget" was prepared under the budgetary constraints of the Gramm-Rudman-Hollings Act. In balancing all the Federal Government's priorities in the context of these constraints, Federal funding of $1.2 billion was proposed for the construction grants program in 1990.

The constraints of Gramm-Rudman will also influence the budgetary proposals offered by President Bush. Specifically, any significant increase (such as that required for "full funding" of this program) in Federal funding would need to be offset elsewhere in the budget. Therefore, although I intend to discuss funding for this program within the new Administration, it is premature to state whether I will counsel President Bush to request full funding of $2.4 billion for the construction grants/State revolving loan program in 1990.

QUESTION FROM SENATOR SIMPSON

Question

Mr. Reilly, you have a reputation for working with groups of divergent interests to forge consensus on difficult environmental issues. This approach does not always bear fruit, but it shows you to be a person who has flexibility and one who can see different paths to solving a problem. With that in mind, I have a question about the Clean Air Act.

We all want clean air, and a great deal of progress has been nationally in cleaning up the air we breathe. We on this committee will consider whether the law needs further changes this Congress. Nevertheless, despite good-faith efforts, there are a few locations where compliance with all aspects of the Act appears to be next-to-impossible.

In Los Angeles, for example, I'm told that the local regulatory authority has under consideration a plan that could force a radical shift for millions of people, and for most of industry. Costs will be high as the individual must adjust to changes as dramatic as using electric or other "exotically" fueled cars, and industry is virtually forced to close. In refining, for example, the plan would mean the ultimate closure of 13 refineries, representing nearly 1.3 million barrels of capacity (54 percent of all capacity in California, and 40 percent west of the Rocky Mountains).

With that long introduction, here is my question:

Obviously, there is a desire to continue making progress but does that mean, in your view, a lack of flexibility to the point of closing industries, with the ensuing effect on the local economy and loss of jobs?

Shouldn't we, this committee and the EPA, be worried about the national security implications of shutting down such a large volume of refining capacity, when the United States has already passed the 50 percent level for imports of crude oil and refined products?

Answer

The Los Angeles plan referred to in this question poses a number of difficult issues. As you know, the air quality problems faced by Los Angeles are among the most serious in the United States. Local authorities in Los Angeles and the State of California, to their credit, are trying to grapple with the difficult question of how to reconcile the need for clean air with activities by both industry and ordinary citizens which, taken collectively, have contributed to the air pollution problems in the Los Angeles Basin.

I have not reviewed the proposed Los Angeles plan, so I would prefer not to comment on the factual issues raised in your question. I understand that the plan is undergoing a detailed review by citizens, industry, and government officials. My own inclination is that local areas should make the initial choices on how to best achieve clean air without imposing unacceptable hardships on the local economy. However, issues such as the ones you raise will need to be considered not only in this context, but also in the context of amendments to the Clean Air Act. Clearly, we need to find approaches to address clean air in ways that are scientifically credible, maintain momentum for continued progress, and challenge us all to do the best we can without imposing unacceptable social disruption or compromising the nation's security.

QUESTION:

The current statute governing pesticides (i.e. FIFRA is a risk benefit statute; and yet, the level of acceptable risk at which a product, or classes of products (e.g. granular pesticides) is not always well defined. This is so, for example, for those pesticides which may pose some environmental (as opposed to human health) risk. As Administrator, how might you seek to address this issue?

ANSWER:

With the recent Agency actions on diazinon, dicofol, and carbofuran, in particular, EPA is well on its way establishing policy and procedures for ecological risk assessment. This process must continue both within the Agency and with the participation of appropriate groups of experts outside the Agency.

At the same time, the Agency must begin the process of developing policy and procedures, including addressing levels of acceptable risk, for the risk management side of ecological issues. I intend to ensure that the Agency pursues this important risk management issue actively.

EPA recently submitted a Report to Congress entitled "Wastes from the Combustion of Coal by Electric Utility Power Plants", which was called for by a 1980 RCRA Amendment. In requiring EPA to prepare this report, Congress was concerned that the Agency not impose strict hazardous waste regulations on coal combustion by-products unless such regulations were necessary to protect human health and the environment. The report indicates that current practices for disposal of coal combustion by-products by the electric utility industry adequately protects human health and the environment, and that these materials do not warrant regulation under Subtitle C of RCRA. The 1980 RCRA Amendments also required a regulatory determination by the Agency within 6 months of submission of the report. That 6 month period ended in September 1988 and is therefore 4 months past due.

Q. When can we expect EPA to issue this regulatory determination?

A. Other unanticipated events in the special waste area arose after the issuance of the Report to Congress that have resulted in the need to shift priorties and resources. For example, on July 29, 1989, the D.C. Circuit Court issued an order requiring the Agency to redirect our efforts and conduct further rulemaking and issue another Report to Congress on the scope of the Bevill exemption for mineral processing wastes. The schedules imposed by the Court contain extremely short timetables for these activities (e.g., only 75 days were provided for the Agency to propose a rule). We will move to complete action on this matter as soon as possible and hope to publish it later this year.

Question:

Do you intend to pursue the promulgation of regulations to require the use of "on-board" canisters in automobiles?

Response:

Although I have not yet been briefed on the details of this rulemaking, I understand there are several key issues. The primary issue of refueling control is whether onboard vehicle controls or Stage II at-the-pump controls should be used. In 1987 EPA proposed that onboard appeared to be the most effective long-term control strategy. Since that time there has been much debate and analysis on such topics as the safety of onboard controls, their cost and effectiveness versus Stage II. The onboard rulemaking package that is currently under review at OMB is a reproposal that contains new material on onboard safety issues and new estimates on the cost and emission reductions available from this rule. The original proposal promised that the comment period would be re-opened for additional comments on the safety issue and other changed circumstances.

The issues are complicated and controversial. I will need to quickly get up to speed on them and work closely with the new team at OMB in order to see if resolution can be quickly achieved.

QUESTION:

Under your leadership would you seek funding for the "Wellhead" Protection Program that was created in the Safe Drinking Water Act?

ANSWER:

The Wellhead Protection Program is one of the most important aspects of the Agency's ground-water protection program because of its focus on areas that potentially pose the greatest risk to human health. EPA's current FY90 budget submission contains $2.5 million in State grant funds, under the Clean Water Act Section 106 Program, for developing wellhead protection programs.

Q.

In what ways can EPA policy be changed in order to stimulate the conclusion of more Superfund settlements between EPA and responsible parties?

A.

As I evaluate the current status of the Superfund enforcement program, I will review current practices and policies to see which of those should be changed. I will examine, among other things, the increased use of enforcement authorities to bring parties to the negotiating table, timely actions against non-settling parties and better publicity surrounding such actions, and appropriate incentives to increase settlement including maximizing the use of the _de minimis_ and mixed funding provisions of CERCLA.

Q. Do you believe in the creation of Federal common law with regard to environmental statutes?

A. I understand that many of the Federal environmental statutes have a relationship back to Common Law principles. I further understand that EPA has used Common Law principles to fashion remedies to supplement statutory authorities. To the extent that there is no conflict with Federal statutes, I would support such continued reliance on Common Law principles where it is in the best interests of the Agency.

Question

How would you prioritize the environmental problems we face today -- how would you list the top three environmental threats to human health?

Response

In EPA's portfolio are a number of critical environmental problems. Getting a handle on all forms of toxics and other wastes, from pesticides to industrial emissions to household wastes, is absolutely critical and will require the best efforts of the Agency and others thoughout the nation in the years ahead; this cuts across EPA's programs in air, water, waste, and other divisions. Other top priorities are threats to the global commoms from pollution and protecting the viability of our natural resources -- wetlands and groundwater, e.g. -- which fundamentally affect human health and economic well-being.

SENATOR SYMMS

QUESTION:

COOPERATION WITH INDUSTRY

When President Bush first announced his intent to nominate you for this position, he cites your reputation for a willingness to work with industry to achieve conservation goals. In an article entitled "After the Environmental Rally" (1978) you offered the following advice:

> The conservation advocate must seek different allies at different times--he must become more aware of the political facts of life inherent in a democracy. For example, he must expect supporters of recreation to be with him when the issue is saving redwoods, but against him when a proposed recreation project will disrupt a marsh or estuary. We should not be surprised if his position on energy pricing more closely resembles that of the oil companies than that of the consumer lobby."

Does this explain the basis of your relations with industry?

RESPONSE:

Awareness of the "political facts of life inherent in a democracy" must be at the heart of efforts to achieve effective environmental protection. This awareness must shape relations not only with industries but with all affected interests and groups.

QUESTION:

Do you see the ethanol and natural gas industries as "allies" in efforts to enact comprehensive Clean Air Act amendments?

RESPONSE:

The ethanol and natural gas industries are among the many interests that may be expected to weigh in on Clean Air Act amendments.

QUESTION:

The following excerpts are from The Use of Land, the report of the Task Force on Land Use and Urban Growth. As I understand it, you edited, and were a major contributor to this work, as well as served as executive director of the Task Force. Could you please indicate if you continue to support each statement?

a. The limited natural supply of prime recreational open spaces should, to the maximum feasible extent, be required by government, preserved, and made publicly accessible.

RESPONSE:

More prime recreation lands should indeed be added to federal, state, and local park systems. As in 1972, however, budgetary constraints severely limit the amount of private land that can be feasibly acquired.

QUESTION:

b. Mandatory dedication requirements (imposed on developers) should be used even more widely than they already are.

RESPONSE:

When new residential development creates recreation demand that requires additional parkland, the costs of the parkland can be borne by occupants of the development or instead by taxpayers. Mandatory dedication requirements, causing developers to include park costs in the price of the homes they sell, can be a fair way to assure that the needed parks are paid for by those who most directly benefit from them rather than by taxpayers.

QUESTION:

c. Open spaces should be insulated as completely as possible from the market forces that press them into development.

RESPONSE:

Yes: Within expanding metropolitan areas, open spaces needed for conservation will inexorably be swallowed up if they are not protected by such measures as protective regulations, voluntary donations by landowners, or acquisition by parks agencies or nonprofit land trusts.

QUESTION:

d. State and local legislative bodies should continue to adopt stringent planning and regulatory measures whenever they believe them fair and necessary to protect natural, cultural, and aesthetic values.

RESPONSE:

Yes: State and local legislative bodies should continue to adopt stringent planning and regulatory measures whenever they believe them fair and necessary to protect natural, cultural and aesthetic values.

QUESTION:

e. The Federal Government should establish and disseminate open space classifications (which) at least set out general constraints on development.

RESPONSE:

Although the agricultural classifications issued by the Soil Conservation Service are invaluable, I am less sanguine today than in 1973 about the usefulness of advisory federal open space classifications.

QUESTION:

f. The States should establish governmental entities, responsible for assisting and when necessary directly undertaking large-scale projects. These entities should have the full range of powers, including the power of eminent domain, the power to override local land-use regulations, and the power to control the provision of public utilities.

RESPONSE:

It is up to each of the states to decide whether, and in what circumstances, they need development agencies responsible for assisting or even directly undertaking large-scale projects.

QUESTION:

g. State laws should assure that impact statements are prepared and reviewed before granting permits for private projects that significantly affect the environment.

RESPONSE:

Yes: State impact statement requirements, when soundly administered, can be useful tools to protect the environment.

QUESTION:

h. Measures that grant partial relief from real estate taxes on farms in urbanizing areas, in force in about half the states, should be re-examined.

RESPONSE:

Yes: Measures that grant partial relief from real estate taxes on farms in urbanizing areas should provide sufficient open space protection to warrant the substantial public cost of the tax reductions. In general, I support measures that provide property tax relief for farms and other open spaces of environmental value, provided that the public does receive the significant preservation the tax reductions warrant.

QUESTION:

i. Federal and state legislation should obligate the sellers of lots (in projects containing 50 or more lots) to guarantee to each buyer that his lot will, for a period of one year after the date on which he is scheduled to obtain title, and again for one year after the date on which the contract obligates the seller to complete all improvements, be fit for construction of a dwelling (or other structure).

RESPONSE:

It has been many years since I have had any contact with the problems addressed by the Interstate Land Sales Full Disclosure Act, so I cannot say whether their recommendation of The Use of Land remains timely.

QUESTION:

In the early to mid-70's you were one of the principle proponents of national land-use legislation which would impose land-use planning requirements upon the States under the penalty of Clean Air Act-like sanctions. Were the political and societal climate the same today as it was in 1972, would you continue to advocate such a measure?

RESPONSE:

Local, state, and private initiatives represent the greatest opportunities to achieve wise land use in the United States. Because many Federal activities affect the use of public and private land, Federal cooperation is sometimes essential to the success of these initiatives.

QUESTION:

As a lawyer, do you substantively agree of disagree with the principles or policies set out in the following:

a. First English Evangelical Lutheran Church of Glendale v. County of Los Angeles, 107 S. Ct. 2378 (1987)

RESPONSE:

Although I have not read the First English and Nollan cases, both appear to establish and restate settled principles of U.S. law with which I of course agree.

QUESTION:

b. Nollan v. California Coastal Commission, 107 S. Ct. 3141 (1987).

RESPONSE:

Although I have not read the First English and Nollan cases, both appear to establish and restate settled principles of U.S. law with which I of course agree.

QUESTION:

c. Executive Order No. 12630, 53 FEd. Reg. 8859 (March 18, 1988).

RESPONSE:

I am not familiar with Executive Order No. 12630 or with the applicable guidelines though I will review it soon.

Question

In testimony before this Committee in October of 1985, you stated you "used to agree with Mr. Ruckelshaus, who has tried very hard to separate the operations of risk assessment from the job of risk management," but that "the more I am exposed to this issue, the less it seems to me that separation is altogether possible." Do you intend to reverse the direction taken by Mr. Ruckelshaus in distinguishing scientific findings from policy judgements?

Response

Scientific findings are an essential basis for policy judgments, but they are of course not the same as policy judgments.

Question

Several organizations are currently reviewing how best to assess the risk to avian species from granular pesticides. The difficulty has been in determining what level of risk poses an environmental hazard significant enough to warrant a change in product registration under FIFRA? Should the EPA establish such a "triggering level" in policy?

Response

I have not yet had a chance to explore the complexities of risk determination for protection of avian species from granular pesticides.

Question

In the foreword to Risk Communication (1986), you note that "risk communicators simply do not do a good job of getting their message across." This sentiment has been expressed almost exactly by noted Cancer researcher Dr. Bruce Ames, who asserts that current methods of risk communication create much greater public concern and outcry than science warrants. Do you share this view?

Response

Because risk communicators do not get their message across, public concern may in some instances be greater than science warrants and, in other instances, less than science warrants.

Question

In your writings on land use planning, you have advocated that, "since it is neither feasible nor acceptable for governments to acquire the vast agricultural and natural areas that ought to be conserved within future urban regions, mechanisms to protect privately held open spaces are essential." The Use of Land notes that one incidental benefit of such mechanisms is to "dampen" any increase in land prices. In a 1974 report for the EPA, EPA Authorities Affecting Land Use, Fred Bosselman cited several such mechanisms. His list included (1) the Clean Air Act, (2) the Clean Water Act, (3) the Marine Protection Act, (4) the Noise Control Act, and (5) the Solid Waste Disposal Act. Do you see these statutes as "mechanisms" as you used the word in The Use of Land?

Response

To protect open spaces within future urban regions, local and state protective regulations are essential. By comparison, the federal laws listed appear to provide little, if any, importance for that purpose.

Question

You testified in April of 1975 before Senator Haskell in a hearing of the House Interior Committee on a national land use planning bill. Senator Haskell noted that there was no provision in the bill under consideration for the federal government to coordinate state land use plane with compliance with federal environmental statutes such as the Clean Air Act.

You responded that the bill was inadequate on that point, and that a provision should be added making an entity of the federal government responsible for "coordinating air and water implementation standards" between the 50 states' land use plans. Do you recall the office within the federal government to which you assigned the duty of coordinating environmental compliance of land use plans nationwide?

Response

If later drafts of the national land use policy bill did provide for coordination of land use and environmental requirements, I no longer recall the provisions. The early, Nixon Administration bill proposed HUD as the principal administrator with Interior also playing a role on the environmental responsibilities.

Question

In November of Last Year, Patrick F. Noonan, President of the Conservation Fund, told an audience at the Radisson Mark Plaza Hotel that "groundwater will drive the land use in the next 10 years. State agencies will be set up that can deny zoning on the basis of ground water conditions. That's power and that's water." As recently as July of 1987, you testified before Congress on the need for "uniform, effective national requirements to protect groundwater." You also recommended that "a strong federal role is vital to induce the states to take action, " and that "simple federal requirements in the new law must be backed up by effective sanctions." Do you see federal groundwater legislation as a part of a national land use program?

Response

I have advocated federal groundwater legislation because of its importance in protecting groundwater resources; I do not see it as a "part of a national land use program."

Question

Do you see wetlands protection as a method, or "mechanism" of land use control?

Response

Similarly, my objective in advocating wetlands protection is to protect valuable wetlands resources.

Question

In Cost-Benefit Analysis and Environmental Regulations (1982), you caution that "we must take care that our penchant for placing a price tag on government action does not seriously damage the precautionary approach to environmental protection embodied in such important laws as the Clean Air Act and the Toxic Substances Control Act." Do you believe cost-benefit analysis could not justify the implementation of these statutes?

Response

Weighing costs against benefits is of course essential in shaping public policy, but price tags and other quantitative methods can mislead us by oversimplifying the complicated tradeoffs involved.

Question

In National Parks for a New Generation (1985), you state that "recent changes in (park) service policy, which restrict participation by field personnel in local government deliberations, amount to a retreat from the needs of the parks and must give way." Would you advocate the involvement of EPA personnel in local government deliberations?

Response

Federal actions often have important impacts on localities and local governments. If EPA field staff can contribute to local deliberations in such situations I would not want them to withhold their counsel.

Question

You said in National Parks for a New Generation (1985) that "There is room for the visionary to urge that the wildlands of Alaska be even more strictly protected than is possible in wilderness in the rest of the country." Do you believe that wildlands in Alaska should be more strictly protected than elsewhere?

Response

As population grows and development continues during the next century, wilderness protection will become even more urgent and even more difficult. The exact nature of the protection to be provided, in Alaska wilderness units just as in other states, requires careful investigation of what is possible and desirable in each case.

Question

The changes in political thought have have occurred over the last eight years have been called the "Reagan Revolution." What does that term mean to you? What, if any, impact has it had on the nation's environment?

Response

In my mind, the "Reagan Revolution" signifies a shift in the balance of thinking about the roles and priorities and fiscal policies of the federal government. Our history suggests that this shift in thinking reflects changes in public values and public needs. In terms of impact on the nation's environment, it is probably too soon to tell since collection and analyses of useful data has a significant time lag; moreover, the causal relationship of policy and budget decisions made in the period 1981-1988 to actual environmental conditions requires considerable analysis, including assessments of the role of many other variable, weather being an excellent example.

Questions from Senator Warner
for Administrator-Designee Reilly

Q. What steps can the EPA take to work with the Department of Defense in their efforts to comply with clean water standards at military installations in the Chesapeake Bay area? And, in your response, could you please chart any progress you have been able to notice that DOD has taken in recent years to come to grips with its environmental responsibilities.

Response: EPA has established a separate Region III Chesapeake Bay Office in Annapolis which includes a group which focuses on Federal agencies' contributions to the restoration of the waters of the Chesapeake Bay. An Interagency Workgroup has also been formed which meets periodically to oversee compliance and other Federal agency activities on the Bay region. In 1984, EPA signed a Joint Resolution with DOD to help ensure adequate coordination and cooperation in pollution abatement activities with military installations in the Chesapeake Bay area.

The EPA Joint Resolution on the Chesapeake Bay was signed on September 13, 1984 by former DOD Secretary Weinberger and former EPA Administrator Ruckelshaus. This agreement committed DoD to give priority consideration to the funding $17 million dollars worth of pollution abatement projects located on the Bay. Also, DOD agreed to initiate a pilot project on environmental self-auditing which has now been adopted DOD-wide. EPA agreed to review DOD's existing land management practices intended to reduce or eliminate soil erosion and other nonpoint sources from its installations.

In the ten years prior to signing the resolution, DOD figures show that they spent over $180 million dollars in Bay environmental projects. Subsequent to the agreement, DOD agreed to conduct a water quality assessment of the impacts of its facilities on the Bay waters. This study was completed by DOD in November 1987 and identified a number of additional areas where DOD could minimize its impacts on the Bay. The study identified approximately $89 million worth of projects (soil erosion and nonpoint source). Most of these projects have now been completed, and many of the remaining projects (totaling $14 millon dollars) are being programmed by DOD and should be completed by DOD in the next several years. In addition to the above, DOD has designated several senior military representatives to serve as ombudsman for their respective services on behalf of the Chesapeake Bay.

Looking beyond the Chesapeake Bay, DOD has also shown progress in its compliance efforts in other program areas. EPA has a unique opportunity to review other Federal agencies' proposed environmental projects each year through the Pollution Abatement Planning Process mandated by Executive Order 12088 and OMB Circular No. A-106. Through EPA's reviews under the A-106 process, we have seen DOD's proposed A-106 plans grow significantly over the past several years. In FY 1984, they proposed 205 projects estimated at $133 million dollars and by FY 1990 these figures had grown to 999 projects totalling approximately $666 million dollars. In addition, the DOD has maintained a separate Defense Environmental Restoration Account (DERA) which in FY 89 contains over $500 million dollars for clean-up of their inactive hazardous waste sites. Although much progress has been made by DOD in the environmental area, additional work is needed to ensure that they are fully complying with all environmental laws and cleaning up past contamination as expeditiously as possible.

Question: **Mr. Reilly, it has been brought to my attention that it is often a difficult process to obtain a permit for the disposal of dredge spoils. Do you have any thoughts as to how the EPA and the Corps of Engineers (COE) can better work together in the future to facilitate the permitting process for the ocean disposal of the spoils from dredging operations?**

Answer: **As you know, COE issues dredging permits in consultation with EPA. EPA and the COE have recently initiated several action which we feel will facilitate evaluation of dredged material disposal options and timely issuance of permits.**

One aspect which has resulted in some difficulty in permit issuance is determining the acceptability of the dredged material for disposal in marine waters. While EPA regulations do exist to make that evaluation, a great deal of discretion is included in the regulations for local decision-making in application of specific criteria. This has led to sometimes lengthy debates over the issuance of dredging permits.

EPA is now revising the regulations to establish a nationally consistent approach to be followed in making the permit decision. EPA and the COE met in November 1988 to initiate these revisions. An interim manual, which will provide methods for judging the acceptability of dredged material for disposal in marine waters, should be completed by the end of this fiscal year.

Question: One of the main problems in Chesapeake Bay and other rivers/bodies of water is pollution due to runoff. Yet we have not seen in recent EPA budgets a strong enough commitment to controlling nonpoint source pollution. Can you give us your thoughts as to this Administration's position on funding for efforts to control and reduce non-point sources of pollution in our tidal and coastal waters?

Answer: The Water Quality Act of 1987 required States to develop assessments of waters impacted by NPS pollution and State Management Programs to address these problems. EPA has made available to States ample funding under section 205(j)(5) for these "development" activities (a total of $46.3 million in FY 87-89 funds). States are now submitting their completed assessments and management programs to EPA for review and approval, after which they become eligible for "implementation" funding. Only three States are currently eligible for implementation funding (South Dakota, Delaware, and Nebraska). Two of these States (Delaware and South Dakota) are using section 201(g)(1) construction grant funding for NPS implementation as authorized by the 1987 amendments.

In anticipation of full State implementation efforts in FY 1990, our FY 1990 budget does earmark some State grant funding and EPA contract dollars to assist States in their overall NPS pollution efforts ($7 million in 106 State grants, over $6 million in 205(j)(5) State grants, and $1,750 million in EPA contract funds.) In addition, our FY 1990 Operating Guidance to States places priority on State NPS efforts in estuaries and near coastal waters and, our National Estuary Program is examining ways to address NPS pollution in the twelve named estuary programs.

We are currently completing a State funding study which looks at the overall State water pollution control funding needs, including NPS efforts. I will carefully review the results of that study this Spring, and will consider its findings as we develop our FY 1991 budget proposals.

Finally, EPA recognizes that NPS needs are too great to rely just on EPA funding. EPA has recently completed a Nonpoint Sources: Agenda for the Future, which sets forth a five-year action plan for the National NPS program. The Agenda encourages cooperation among Federal and State Agencies to leverage funding and program support for NPS efforts. In particular, given the magnitude of the problem of agricultural NPS pollution, EPA is working closely with USDA on its efforts to target more conservation funds, programs and field staff to State identified NPS needs. The Agenda also encourages States, including those in the Chesapeake Bay region, to devote more State and local funds and efforts to NPS pollution. We strongly believe this is a large part of the long-term solution to NPS pollution, given its local nature and the implications for local land use and development decisions.

I plan to meet soon with the Office of Water to go over the Agenda for the Future to see what more needs to be done within the Agency and with the States and either Federal agencies.

Question: Do you have any thoughts as to how the Administration might devise a comprehensive approach to weighing the benefits and drawbacks of these two methods of disposing of dredge spoil?

Answer: A number of options are available for disposal of dredged material; some of these options include:

- open water unrestricted disposal at a designated site,
- restricted disposal such as capping of contaminated material with clean material,
- diking the material to create an island,
- on-land disposal.

To provide for effective and consistent decisions on choosing a disposal option, we are in the initial stages of preparing a Dredged Material Management Strategy Document. This document will be a joint EPA and COE product and will provide a methodology for determining the appropriate disposal option. Factors in the decision matrix will include such considerations as:

- the potential impacts of the dredged material on the aquatic environment due to toxicity or physical impacts
- potential human health effects (bioaccumulation in fish or shellfish of toxic compounds)
- potential contamination of ground or surface water for land disposal options
- benefits of beach nourishment or building islands
- impacts on wetlands and habitats
- economics
- aesthetics

We think this management strategy will go a long way in providing a consistent and environmentally protective approach to disposal of dredged materials. We met with the COE last October to initiate this effort and the next meeting with the COE is scheduled for February 7.

Question: Senator John Warner

Mr. Reilly, can you offer any insight into the Bush Administration's commitment to the clean-up of the Chesapeake Bay? And what comments can you offer on the EPA's role as coordinator for the Federal part of these efforts?

Answer:

As you know, the Federal Government's concern about the Chesapeake goes back over a dozen years. The degradation of the Bay and its declining resources prompted Congress in 1975 to order a comprehensive investigation by EPA of the environmental problems besetting the estuary and its tributaries. This study was carried out over the next seven years at a cost of $27 million.

The research findings and recommended remedial strategies, published in 1983, led to the signing of the first Chesapeake Bay Agreement in December of the same year, forging the first links in what has become an enduring partnership and commitment to the Chesapeake among the Commonwealths of Pennsylvania and Virginia, the State of Maryland, the District of Columbia, the Chesapeake Bay Commission, and the Environmental Protection Agency as well as 10 other Federal agencies.

EPA's participation in this partnership became a statutory responsibility under the 1987 amendments to the Clean Water Act. That legislation ensures an ongoing EPA role in the areas of Federal-State coordination and research, as well as providing for the continuity of Federal implementation grants to the States.

In 1987 the Agreement signatories signed a new Chesapeake Bay Agreement, taking an important step forward in the restoration effort. This landmark agreement established new initiatives and specific goals, deadlines and objectives for addressing key issues such as nutrient and toxic pollution, the decline of the Bay's living resources, population growth and land use, which will set the course of efforts to protect and restore the Bay over the next several years. Achieving the Agreement's goals, including the important commitment to achieve a 40 percent reduction of total nitrogen and phosphorous loads to the Bay by the year 2000, will require a significant and sustained effort on the part of all participants, as well as significant financial resources.

The Federal Government has an essential role to play in moving the restoration program forward as mandated by the 1987 Clean Water Act amendments. EPA maintains a Chesapeake Bay Liaison Office to coordinate the overall State-Federal effort, and also serves as the lead agency for the Federal components involved. And that Federal commitment is growing. EPA has strengthened its memoranda of understanding covering Bay Program participation of the Soil Conservation Service, the Fish and Wildlife Service, and the Army Corps of Engineers. The National Oceanic and Atmospheric Administration and the U.S. Geological Survey are also partners in the Bay Program. EPA has recently entered into MOUs with the Forest Service and the Agricultural Stabilization and Conservation Service to formalize their participation. When appropriate, EPA hopes to work out parallel accords with the National Park Service and the Federal Highway Administration. The Agency will continue to work closely with the Defense Department to further the participation of its facilities in the restoration program.

We estimate that nearly one billion dollars will be expended in the watershed by the year 2000 just for the control of nutrients from point and nonpoint sources. We expect the States to pay a significant portion of this cost and will look at contributions by private industry as well as new funding mechanisms. The Federal government will continue to have an important role in the process but polluters and the States must continue to provide most of the funding.

I hope that Congressional support for Bay Program funding will continue in the future as we move to more fully define the programs needed to reduce levels of nitrogen, phosphorus and toxic pollutants reaching the Bay. Bay Program activities are being supported through the ongoing development and use of advanced basin and water quality monitoring, modeling and data management systems. The current funding level provides $10 million a year used primarily to continue nonpoint source abatement programs in priority watersheds of the Bay basin. States match this grant money dollar for dollar.
As important as funding is, we also recognize the need to further the integration of Bay-related programs--within EPA, between Federal agencies, and with the States--to achieve maximum results for the dollars we spend.

A cross-media approach to environmental problems has been a major management objective within EPA, an objective which will have my personal attention as Administrator. Its application is fully appropriate to the Bay Program as the pollutants that affect the water quality and living resources of the Chesapeake involve all of EPA's statutory programs.

QUESTION FROM SENATOR WARNER

Question

1) Mr. Reilly, you have a reputation for working with groups of divergent interests to forge consensus on difficult environmental issues. This approach does not always bear fruit, but it shows you to be a person who has flexibility and one who can see different paths to solving a problem. With that in mind, I have a question about the Clean Air Act.

We all want clean air, and a great deal of progress has been nationally in cleaning up the air we breathe. We on this committee will consider whether the law needs further changes this Congress. Nevertheless, despite good-faith efforts, there are a few locations where compliance with all aspects of the Act appears to be next-to-impossible.

In Los Angeles, for example, I'm told that the local regulatory authority has under consideration a plan that could force a radical shift for millions of people, and for most of industry. Costs will be high as the individual must adjust to changes as dramatic as using electric or other "exotically" fueled cars, and industry is virtually forced to close. In refining, for example, the plan would mean the ultimate closure of 13 refineries, representing nearly 1.3 million barrels of capacity (54 percent of all capacity in California, and 40 percent west of the Rocky Mountains).

With that long introduction, here is my question--

-- Obviously, there is a desire to continue making progress but does that mean, in your view, a lack of flexibility to the point of closing industries, with the ensuing effect on the local economy and loss of jobs?

-- Shouldn't we, this committee and the EPA, be worried about the national security implications of shutting down such a large volume of refining capacity, when the United States has already passed the 50 percent level for imports of crude oil and refined products?

Answer

The Los Angeles plan referred to in this question poses a number of difficult issues. As you know, the air quality problems faced by Los Angeles are among the most serious in the United States. Local authorities in Los Angeles and the State of California, to their credit, are trying to grapple with the difficult question of how to reconcile the need for clean air with activities by both industry and ordinary citizens which, taken collectively, have contributed to the air pollution problems in the Los Angeles Basin.

I have not reviewed the proposed Los Angeles plan, so I would prefer not to comment on the factual issues raised in your question. I understand that the plan is undergoing a detailed review by citizens, industry, and government officials. My own inclination is that local areas should make the initial choices on how to best achieve clean air without imposing unacceptable hardships on the local economy. However, issues such as the ones you raise will need to be considered not only in this context, but also in the context of amendments to the Clean Air Act. Clearly, we need to find approaches to address clean air in ways that are scientifically credible, maintain momentum for continued progress, and challenge us all to do the best we can without imposing unacceptable social disruption or compromising the nation's security.

ENVIRONMENTAL DEFENSE FUND

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Frederic D. Krupp
Executive Director

January 30, 1989

The Honorable Quentin N. Burdick
Chairman, Senate Environment and Public Works Committee
511 Hart Senate Office Building
Washington, D.C. 20510

RE: Nomination of
William K. Reilly to
be Administrator of
the Environmental
Protection Agency

Dear Senator Burdick:

The Environmental Defense Fund strongly supports the nomination of William K. Reilly to be Administrator of the Environmental Protection Agency, and urges you and your Committee to support the nomination as well.

The Environmental Defense Fund is a national, non-profit organization that has, from its inception in 1967, advocated scientifically sound and economically viable solutions to the nation's environmental problems. Bill Reilly, in our view, is a person exceptionally well qualified to lead the EPA at a time when many pressing environmental problems require creative, innovative solutions. He will bring to the job of EPA Administrator a deeper understanding of the many complex environmental problems facing our country and the world than virtually any of his predecessors. That uncommon understanding, combined with an amply demonstrated talent for forging consensus among seemingly antagonistic interests, gives us great optimism that Bill Reilly will be an excellent EPA Administrator.

The years that lie immediately ahead of us present both great challenges and great opportunities. We are now, more so than ever before, able to perceive the potential future environmental ramifications of the actions we take today. Continued heavy dependence on current energy sources, without a major commitment to conservation and increased efficiency in the use of those resources, threatens enormous dislocations in agriculture and other sectors of the economy

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as a result of climate change. The continued use of production processes that seek only to maximize the production of useful goods, without simultaneously seeking to reduce the generation of dangerous wastes, threatens our future ground water supplies and our future health. Continued helter-skelter development, without regard to the ecological importance of the areas being developed, threatens the future of our already greatly diminished wetlands resources and the waterfowl, fisheries, and other wildlife that depend upon them.

Bill Reilly understands well the gravity of these and other problems that confront the nation and EPA. He also understands well that for many of these problems new solutions will be needed. Our future requires that these problems be solved, but it also requires that the economic well being of the nation continue. The new solutions that must emerge will have to harness the individual private incentives that comprise our economic system in a way that complements government efforts to remedy environmental ills. A recent provocative study commissioned by your colleagues, Senators Wirth and Heinz, shows clearly that there can be solutions to many of our most pressing environmental problems that serve the twin goals of environmental protection and economic progress. That study also shows that solving environmental problems is a bipartisan goal and will require bipartisan efforts. We think Bill Reilly understands that very well, and that as Administrator of EPA he will forge the consensus needed for a better environment for ourselves and our children.

Yours truly,

Fred Krupp

FDK/dkw
cc: Senate Environmental and Public Works Committee members

January 31, 1989

STATEMENT OF MICHAEL CLARK

ON BEHALF OF

FRIENDS OF THE EARTH
THE ENVIRONMENTAL POLICY INSTITUTE

TO THE SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

ON THE NOMINATION OF WILLIAM REILLY AS ADMINISTRATOR OF EPA

Friends of the Earth, founded in 1969, has 33 affiliates around the world and works on a broad range of energy, water, public lands and atomspheric isues. The Environmental Policy Institute is a seventeen year-old public-interest, advocacy-oriented group dedicated to research and education on environmental concerns, including public health, energy, conservation of natural resources, and global environmental problems such as ozone depletion, tropical deforestation and global warming. Both organizations have had extensive involvement with the Environmental Protection Agency since their inception.

Friends of the Earth and the Environmental Policy Institute wish to go on record in support of the nomination of William Reilly as the Administrator of the Environmental Protection Agency (EPA). Members of our staff have known and worked with Mr. Reilly for many years and have found him to have a genuine commitment to environmental protection.

The task he will face as head of EPA is extremely challenging, both as a result of the accelerating pace of destruction of the global environment and the legacy left by President Reagan. During the last eight years the EPA has been denied the financial and other resources necessary to carry out its statutory mandates. Its ability to implement and enforce crucial environmental and health protection laws has been systematically curtailed, and public trust in the agency sank to an all-time low during the Reagan years. Morale within EPA itself was undermined from the beginning of the Reagan Administration through the appointment of such individuals as Ann Gorsuch Burford and Rita Lavelle, and perhaps most significantly through the President's own all-out war on environmental regulation.

Mr. Reilly has the difficult job of rebuilding the EPA so that it can meet major environmental challenges, from contamination of groundwater to depletion of the ozone layer. The Environmental Policy Institute and Friends of the Earth pledge to work for the financial resources urgently needed by EPA to carry out all of its policy mandates. Attached to this statement are several graphs illustrating the serious underfunding of the agency during the past eight years.

One area of considerable opportunity and challenge can be found in the emerging field of biotechnology. From the current ad hoc approach being used to regulate the release of genetically altered organisms into the environment, it is not clear whether EPA will have the authority, the financial resources, the regulatory and scientific personnel, or a detailed and accessible scientific data base to ensure that public health and safety and the environment will be adequately protected in the years ahead. We therefore urge Mr. Reilly, acting in cooperation with appropriate Congressional committees, to undertake a thorough review of the existing biotechnology regulatory program.

Another particularly important issue is the independence of the EPA and its ability to use the regulatory process to properly protect human health, safety, and the environment for the benefit of society as a whole. The Reagan Administration promulgated a series of Executive Orders that the Office of Management and Budget interpreted to provide extraordinary powers to intervene, and often to subvert, the regulatory process. EO 12291, issued in early 1981, has been used by OMB to intrude even into the science analysis and judgments of the EPA on the ground of conducting cost-benefit analyses. With EO 12498, which applies EO 12291 to all policy-related activities of the EPA, OMB has further entrenched itself in the day-to-day regulatory process.

In addition, OMB has interpreted the Paperwork Reduction Act of 1980, 44 U.S.C. Section 3501, which mandated an overall reduction in government paperwork and was directed at the useless "fat" in the bureaucracy, as applying to every agency and program, no matter how essential the forms and information in question are for proper regulation to protect human health, worker safety, and the environment.

We note also that President Reagan delegated certain authority under the Superfund legislation to OMB as well as EPA. This has resulted in OMB second-guessing EPA on scientific and policy judgments in inappropriate ways.

Taken together, these Executive Orders and OMB's interpretation of them, OMB's implementation of the Paperwork Reduction Act, and OMB's interventions on Superfund and other questions have made it impossible for EPA to properly carry out its important work. If these Executive Orders remain in place and continue to be utilized by OMB as they have during the last eight years, the appointment of Mr. Reilly will be only a hollow gesture from the Bush Administration.

Citizens around the country have become greatly disillusioned with the ability or even the inclination of EPA to protect their health, environment, and well-being. The Environmental Policy Institute and Friends of the Earth hear regularly from these frustrated citizens, and we know that they are demanding rulemaking processes which are no longer manipulated or crippled by industry pressures. Further, they are looking for strict enforcement of pollution laws and leadership in addressing the threats to our global environment.

National pollsters for some time now have shown that the American public strongly supports tough environmental regulations. In highlighting the problems of Boston Harbor, candidate Bush promised strict enforcement of environmental laws. Today we look to President Bush and to Mr. Reilly to fulfill all the pledges made in the campaign. We submit that an essential first step in fulfilling this pledge is to provide a clear line of authority for the Assistant Administrator for Enforcement over a consolidated regional enforcement staff.

While we offer our support for Mr. Reilly's nomination, and urgently hope for a strong, successful tenure, we want to raise a point of concern, both with Mr. Reilly and the Members of this Committee. Mr. Reilly brings not the experienced toughness of a regulator or the determination of a harried bureaucrat juggling short deadlines on shorter budgets. Rather he brings the experience of a scholarly researcher, a facilitator, and a successful chief executive of a prominent non-profit organization. He has been an environmental diplomat and deservedly has earned much respect in that capacity. But now he must be more.

Quality scientific research, thoughtful consideration of policy options, and collaboration and cooperation are important tools that EPA can and must use. However, Mr. Reilly, as EPA Administrator, must not simply initiate more studies that delay tough decisions or sit at negotiation tables with high hopes when the time for negotiation has passed. Consensus-building has its place, but it cannot replace strict enforcement of environmental laws. And the funding of consensus projects must not divert scarce dollars from essential EPA programs.

Upon confirmation Mr. Reilly will wear the hat of a regulatory official, which will require a different mode of operation. We hope and trust that he understands this and that Members of this Committee will remind him should that become necessary.

To ensure Mr. Reilly's effectiveness as EPA Administrator, it will be imperative that he carefully consider the individual he selects as Deputy Administrator as well as those he selects as Assistant Administrators. These people -- as much as Mr. Reilly himself -- will set the tone for the type of commitment, experience, and outlook that will guide EPA during the Bush

Administration. These individuals have the responsibility for direct involvement in important day-to-day decisionmaking within the agency, and will have a major impact on the success or failure of EPA programs.

Thus, we urge Mr. Reilly and this Committee to work together to ensure that those candidates reflect the highest standards of integrity and the deepest commitment to the agency's mission. We also recommend that Mr. Reilly look within the Agency for qualified candidates who offer a great deal of experience and institutional memory about EPA programs and who bring direct regulatory expertise that complements his diverse background.

In summary, we give William Reilly our support, pledge to work with him for a substantially expanded budget and enforcement capability for the EPA, and promise to monitor closely the performance of the Agency under his leadership.

TESTIMONY OF PETER A.A. BERLE
PRESIDENT
NATIONAL AUDUBON SOCIETY
BEFORE THE
SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

January 31, 1989

This testimony is submitted on behalf of the National Audubon Society and its half million members to support the nomination of William K. Reilly to be the next Administrator of the U.S. Environmental Protection Agency. I have known and worked with Bill for many years, most recently on the National Wetlands Policy Forum, and respect his many abilities. Bill Reilly's demonstrated capacity to move disparate interests to consensus positions will serve him well in his new job. He is eminently qualified to take the helm of this our most important environmental agency.

Bill is more fortunate than his predecessors. He takes over an agency which, though nearly destroyed during the early years of the Reagan Administration, has been partially restored under the able leadership first of Bill Ruckelshaus, and more recently of Lee Thomas. He will also be part of an Administration, the leader of which made many promises during his presidential campaign which directly bear on the new Administrator's responsibilities. Allow me to list some of those commitments.

President Bush promised to:

- enforce environmental laws vigorously
- speed up the cleanup of toxic waste dumps
- convene an early international meeting on global environmental problems, including the threat of climate change
- give high priority to groundwater protection
- take action on eliminating acid rain, including the establishment of emission reduction goals, if necessary
- strengthen the Clean Air Act
- prosecute those who dump medical wastes in the oceans
- ban ocean dumping of sewage sludge after 1991
- impose strict standards on manufacturers who use lead in the development of their products
- require polluters to pay for cleanup of toxic wastes
- achieve "no net loss of wetlands"

Never have we had a President go on record so forcefully on environmental issues, and promise so much. We in the environmental community look forward to helping the President and the new Administrator of EPA keep those promises.

EPA's task in this regard will not be easy. The new Administrator will not only have to face the internal problems which are the unfortunate legacy of the last Administration, but severe new challenges as well. These challenges - the overriding threat of global climate change, the breakdown of environmental controls at the nation's defense facilities, and others, will require the EPA to assume a leadership role within the larger government which may sometimes be painful and will certainly be resisted by some. There will be battles over the budget, and some will be lost. But we expect the new Administrator to fight vigorously for the necessary funds to run these critical programs.

In addition, although progress has been made restoring funds and personnel to the agency's enforcement program, and the number of inspections has increased under Lee Thomas, more needs to be done. The new Administrator should make it clear that effective, prompt and strong enforcement of the nation's pollution control laws is one of his top priorities. Whatever institutional changes are necessary to achieve those objectives should be undertaken, accompanied by adequate resources. An efficient partnership should be established with the U.S. Department of Justice so that cases do not languish in agency or departmental offices, but move quickly to court.

We look to the new Administrator, early in his tenure, to keep President Bush's promise, and introduce legislation to strengthen the Clean Air Act to deal aggresively with the problems of acid rain, air toxics and non-attainment. Our national health and natural resources have suffered too long under the negligence of the prior Administration.

Specifically, a proper legislative program to address acid rain should reduce sulfur dioxide emissions by 12 million tons. This is consistent with recommendations made by the National Academy of Sciences. To date, EPA has only regulated 8 air toxics and we believe that EPA must make a renewed commitment to doing a better job in this regard. We also support the idea of a Chemical Safety Investigations Board to investigate and help prevent chemical accidents.

To bring the 107 cities that currently exceed federal health standards for air quality into compliance, the Clean Air Act should require automakers to use newer, more effective pollution control devices on autos, trucks and buses. In addition, gasoline vapor controls, volatility standards, and broader industrial use of pollution control technology should be required. Municipal plans for meeting air quality standards should ensure that the goal is actually met within 5 years for most cities, and 10 years for virtually every city.

We also await the introduction of legislation to protect our dwindling wetland resources, and expect the new Administrator to support efforts underway in the Department of Agriculture and in this Committee to deal with the increasingly serious problem of groundwater contamination.

Special challenges await the new Administrator in the cleanup of hazardous waste sites. Nearly destroyed and severely discredited by the early years of the Reagan Administration, the Superfund program is still beleaguered by problems. Superfund occupies half the Agency's resources. The new Administrator should give priority attention to the implementation of this program and as a first order of business, select a strong capable Assistant Administrator for the Hazardous Waste Program.

A recent newspaper article pointed out that only 18 listed sites have been cleaned up since 1980 of more than 30,000 potential sites throughout the country. Even more shocking is the fact that only 9,100 of these sites have been physically inspected over the past eight years, and 1,177 placed on the National Priorities List. Although some progress is being made at EPA, and the number of remediation plan approvals has doubled when compared to the preceding year, the record is not adequate. We are troubled by the fact that the agency is not requiring permanent cleanup at these sites and we are fearful that most of these sites will have to be revisited and cleaned up a second time.

The new Administrator should take whatever steps are necessary to insure that consistent decisions are made nationwide about cleanup criteria and methodologies and that Congress' clear preference for permanent remediation is complied with. The new Administrator should also allocate the nesessary resources for effective and timely enforcement actions to implement the law. And finally, the new Administrator should provide for the immediate issuance of grants to citizens (the so-called TAG grants) to enable them to participate in the cleanup decision-making process at specific sites.

The new Administrator, however, should not assume that old line programs, such as the water and toxics/pesticides programs do not need his attention. Significant new responsibities were added in the reauthorization of the enabling legislation for those programs. EPA is already woefully behind in meeting the implementation schedules set forth in the 1987 Water Quality Act with respect to the promulgation of effluent guidelines for unregulated industries, such as hazardous waste treaters and pesticide manufacturers, and is proposing to implement a program to begin the process of abating nonpoint source pollution with no new funds, despite a congressional authorization of $100 million.

EPA is just beginning to review and evaluate health tests on 600 active ingredients in older pesticides on an accelerated schedule mandated by Congress. Even with congressionally mandated deadlines, the process is behind and will not be completed until 1999. The new Administrator should ensure that this process does not falter for lack of attention or resources. The agency also needs to give greater priority to regulation of so-called "inert" ingredients in pesticide formulations. The agency has already identified inert ingredients that pose safety risks, many of which are active ingredients in other formulations such as cadmium and mercury oleate.

The agency strategy on ground water fails to recognize the importance of protection of this irreplaceable resource. Similarly, the agency policy for regulation of carcinogens in food raises grave legal concerns regarding EPA's commitment to enforcement of the law and protection of the environment.

In regard to biotechnology, the agency has delayed for four years promulgation of draft rules to establish a new program to regulate microorganisms under the Toxic Substances Control Act. Although the agency has performed good initial reviews of bioengineered organisms on a case by case basis, the number of engineered products will increase dramatically, and without good developmental practices based on well-recognized principles, U.S. industry will suffer from such a cumbersome and uneven process. We must not allow any further delay in publishing this rule.

Under Lee Thomas, EPA began to address international pollution problems, such as global warming and the export of toxic chemicals. The threat of severe disruption from change in our global climate has a particular urgency. We look to the new Administrator to take a leading role in pushing the Administration towards expeditious action to reduce this threat. We not only need immediate action to force an early termination of the use of chlorofluorocarbons and other substances which deplete the ozone layer, but also a determined effort to work towards a national plan for reducing U.S. carbon dioxide emissions, with the view to achieving absolute percentage reductions in the U.S. contribution to the world greenhouse problem by the year 2000. President Bush has clearly indicated his desire for our country to help lead the way, within the international community, in dealing with this critical problem. We will not be able to assume that role, however, unless we show now that we are willing to take serious steps here at home to address our own greenhouse emissions problem.

It should be obvious to all that the new Administrator of EPA faces many challenges. We look forward to working with him and his able staff in meeting those challenges. We look forward to a continuation of the openess that Lee Thomas evinced toward our concerns. His was an extremely accessible administration. We know that we shall enjoy the same openness with Bill Reilly.

National Democratic Policy Committee

P.O. Box 17729 • Washington, D.C. 20041-0729

SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE

TESTIMONY

on the

NOMINATION

of

WILLIAM REILLY

to become

ADMINISTRATOR of the ENVIRONMENTAL PROTECTION AGENCY

Submitted by the

NATIONAL DEMOCRATIC POLICY COMMITTEE

JANUARY 31, 1989

NDPC
P.O. Box 17729
Washington, D.C. 20041

Testimony of National Democratic Policy Committee (NDPC)
To the Senate Committee on Environment and Public Works
On the nomination of William Reilly as administrator
of the Environmental Protection Agency
January 31, 1989

The National Democratic Policy Committee is a political action group.

The NDPC is opposed to the appointment of William Reilly as administrator of the Environmental Protection Agency, for the same reason that we are opposed to the existence of the EPA. Both Mr. Reilly and the agency itself represent a political lobby rather than a department of government--a lobby, we contend, that does not operate in the national interest.

The policies that Mr. Reilly has advocated in his capacity as head of the World Wildlife Fund and the Conservation Foundation are those of a feudal oligarchy concerned with hunting wildlife for personal pleasure, not an industrial nation that since its inception has developed science and technology for the purpose of advancing the material and cultural standards of its own people as well as those of the rest of the world.

As his career demonstrates, Reilly is a Malthusian who places a higher value on preserving wildlife and so-called natural habitats than on preserving human life. He sees "Nature" as some sort of pagan force that must be worshiped and allowed to run its course without the messy intervention of man. This is contrary to the goals of this nation as expressed in the U.S. Constitution, as well as the Judeo-Christian ethic. In our present economic crisis, any further environmental restraints can only result in reducing world food reserves and increasing the possibility of a worldwide famine. Such restraints would also introduce insupportable taxes to industries already at the point of bankruptcy.

The two organizations that Mr. Reilly has headed are devoted to overturning the American belief in scientific and technological progress. To quote from an annual report of the Conservation Foundation: "Increasing population causes a drain on natural resourcess which is geometric, not arithmetic.... Science cannot be expected to supplant the vital processes of nature." Such population reduction policies run counter to the philosophy of a majority of the American people, as does the antiscience bias.

The Role of the EPA The Environmental Protection Agency came into being 20 years ago because of the lobbying of environmentalist groups. Its major proper functions can be maintained through the normal activities of the Department of Agriculture, the Department of the Interior, the Department of Energy, the Department of Commerce, and the Food and Drug Administration. Among the other advantages of such a reorganization would be the reduction of the present cost of running the EPA, now one of the largest governmental bureaucracies.

The EPA functions by manipulating ignorant opinions of a population that has been conditioned to fear and ignorance, of a public worried by daily horror stories of big bad industrialists poisoning their food, water, land, air, and so on, in order to carry out a secret agenda. Its decisions have been made for political reasons only, having little to do with actual facts and actual risks. By taking an adversary role against science and against industry, the EPA has seriously damaged the quality of life for our citizens and those of other nations, and has caused actual deaths. For example, the political rulings banning life-saving pesticides like DDT have meant the deaths and illnesses of millions in the developing sector. Given its political history as an agency that has often arbitrarily supported the extremist views of environmentalist lobbying groups, we believe that any necessary regulatory activities could be better carried out by other existing government agencies. To subsume the role of the EPA into these other departments would remove the governmental sanction from an environmentalist "religion" that worships "Nature."

In any case, by confirming Mr. Reilly as head of the existing EPA, Congress will be adopting the World Wildlife Fund and the Conservation Foundation as a government agency, in effect increasing the fund's annual multi-million-dollar budget for its anti-people activities by about $5 billion (the EPA 1988 budget). We believe that this nation cannot afford to give such power to an organization characterized by the elitist views of its leading spokesman worldwide, England's Prince Philip. If the United States is to survive as an industrial and scientific nation, it must return to the American System idea, popularized during the Lincoln administration, that "people are wealth" and that man must have dominion over nature. The appointment of William Reilly will take us in the opposite direction--giving an oligarchic elite dominion over this nation's future in the name of "protecting the environment."

TESTIMONY ON THE CONFIRMATION OF WILLIAM K. REILLY
AS ADMINISTRATOR OF EPA

BY J. W. HIRZY, FOR NFFE LOCAL 2050

JANUARY 31, 1989

Mr. Chairman:

I am William Hirzy, President of Local 2050 of the National Federation of Federal Employees. Our Union represents 1200 professional employees at Headquarters of the Environmental Protection Agency in Washington. On behalf of those 1200 employees and our Union, I urge the confirmation of William Kane Reilly as Administrator of EPA.

Our Local Union has, through two mechanisms, sought to encourage the selection of just such persons as Mr. Reilly for the appointive jobs at EPA. We sponsored and got passed at our national Union's convention last September, a resolution that NFFE work toward the appointment and confirmation of managers with:

> "Knowledge, skills and abilities in the field in which the appointee will be expected to function as a manager;
>
> "Accomplishments indicative of the candidate's dedication to achieving societal goals embodied in the laws for which his/her Agency has responsibility; and
>
> "Behavior patterns and training indicative of a candidate's ability to manage people".

We believe that William K. Reilly fulfills these criteria admirably.

Likewise, our Union participated in the Blueprint for the Environment coalition and sponsored a recommendation that was adopted by the coalition which mirrors the language cited above. Our coalition with environmental organizations reflects, among other things, Union members' interest in seeing a greater emphasis on ecological matters in future EPA operations, and Mr. Reilly's background encourages us to believe that this sort of new emphasis will be forthcoming under his leadership.

Our Union has serious concerns, however, about the state of morale in the career Civil Service at EPA. From the attention this subject has gotten in the press over the past year, we believe these concerns are shared by Congress, the President and, we hope, Mr. Reilly. These concerns will fall within Mr. Reilly's scope of authority as Administrator, and we ask that you seek his opinion about these morale-influencing matters.

First, we encourage attention to the proper role of negotiations in the sphere of environmental protection. Negotiating solutions to environmental problems seems to us perfectly appropriate. Such negotiations ensure to the maximum extent that all interests are addressed "up front", thereby speeding the rule-making process and minimizing possible legal challenges. The public is a clear beneficiary of such a process in terms of time and money spent. Negotiating over the existence of environmental problems is not appropriate at all. We see the proper role of EPA's science professionals as one which identifies and quantifies the existence of environmental problems, while the role of EPA's legal professionals and political appointees is to decide what do to about them. Either the ozone hole exists or it doesn't, and the consequences are likely to be of a particular magnitude. Politics, law and negotiations have no role in this process. What to do about the ozone hole falls within the purview of the political/legal process, and negotiations can be vital to a timely and effective solution. In this latter process, EPA Civil Service employees' role is to follow political managers' directives toward politically acceptable solutions--these solutions do not include denying existence of the problem, or minimizing the significance of its consequences, or keeping scientific assessments out of public view. That in a nutshell is the Union's view of professionally ethical Civil Service performance, and we hope it is Mr. Reilly's too.

Second is the issue of ensuring professionally ethical work at EPA. The Union believes that an enforceable code of professional ethics at EPA is in the public interest and the employees'. It will protect the validity of science used in EPA decision-making, and thus will ultimately protect the public we serve from erroneous or fraudulent use of science--or what is sometimes fobbed off as "science" in the often politically charged decision-making atmosphere at EPA. Mr. Reilly's support for an enforceable code of professional ethics will ensure its appearance as a work place norm at EPA. His opposition or ambivalence--in conjunction with the "management rights" provisions of the Civil Service Reform Act of 1978--will ensure that ethically executed professional work at EPA will continue to be at risk from incompetent or unethical management directives.

Third is the issue of the use of Civil Service staff scientists' work as opposed to "purchased science" in EPA decision-making. At EPA now, regulations are sometimes developed start-to-finish by contractors, in total usurpation of the legitimate government functioning of the career staff. The most recent example of this is the Office of Solid Waste's Interim Final Rule covering medical wastes, now in Red Border review. Mr. Reilly's clearly stated support--to employees and to Congress--for the use of Civil Service staff whenever possible will go a long way toward improving staff morale and, we believe, the value to the public of EPA's products. And let me be specific about this: we mean that Mr. Reilly should undertake a study of the staff resources now available at EPA versus the resources needed to properly conduct EPA's business with Civil Service employees and then report the findings to Congress.

Fourth is the physical work environment at EPA Headquarters. While the Union commends EPA management's efforts to improve ventilation, management has consistently refused to remove a source of indoor air pollution (certain carpeting) at Waterside Mall responsible for severe illnesses and substantial financial loss to EPA employees. One of our people has been without a paycheck since August due to injuries inflicted by EPA management, and she has been refused by her immediate management in attempts to work at another location. We hope that Mr. Reilly will have some constructive thoughts on removing this thorn in the EPA employees' collective side.

Finally, the generally deplorable state of labor relations at Headquarters--just one example of which is the indoor air problem mentioned above--must be improved. We hope that the formerly excellent relations that existed until last Spring between the Headquarters unions and EPA management will be restored by Mr. Reilly's active intervention. The simplest way to achieve this end is to elevate responsibility for labor-management relations to the Immediate Office of the Administrator or to the Immediate Office of the Assistant Administrator for Administration and Resources Management and to staff that function with persons capable of dealing with policy issues of importance to employees in the professional job categories. Such a shift should keep future issues from turning into problems that fester under layers of bureaucratic indifference or ineptitude into hard feelings between the administration and its unions, as was the case last year.

We are certain that with Mr. Reilly's confirmation a completely new era in the Nation's drive to clean up the environment and to protect it and the health of its citizens is about to begin. The Union of EPA professionals eagerly awaits his arrival and the chance to join him in this exciting and important work.

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Statement of Dr. Jay D. Hair

President

National Wildlife Federation

on the
Nomination
of

William Kane Reilly

as

Administrator of the Environmental Protection Agency

Senate Committee on Environment and Public Works
January 31, 1989

On behalf of the National Wildlife Federation (NWF) -- the Nation's largest private conservation-education organization with over 5.1 million members and supporters -- I am pleased to submit this testimony in support of the nomination of William K. Reilly to be the next Administrator of the Environmental Protection Agency (EPA). I speak for an organization dedicated to the protection and stewardship of our Nation's renewable natural resources and committed to a clean, healthy and safe environment for all our citizens. Having known Bill for years, I also speak as a colleague and close friend who can testify to his integrity and support for EPA's mission.

William Reilly's credentials to serve as our Nation's environmental gatekeeper are impeccable. From his earliest boyhood days when he frequented his family farm in southern Illinois, Bill never lost touch with his "feeling for the land." This sensitivity for the environment has been carried forward through his formal education at Yale and Harvard, his years as a senior staff member of the Council on Environmental Quality, to his tenure as President of the World Wildlife Fund-The Conservation Foundation. Bill is intelligent, creative in his approach to problem solving, and a demonstrated manager and administrator. In a word, William K. Reilly is a world-class environmental leader and is the first professional environmentalist ever to be named the EPA Administrator.

William Reilly has devoted his career to protecting the environment. He has done so in a manner that breaks new ground by fostering dialogue rather than debate, seeking consensus rather than confrontation. To meaningfully and substantively address the "mega-issues" of global warming and ozone depletion will require vision, consensus-building, and action. William Reilly has the intellectual resources, the political stamina, and the deep-seated conviction to meet these challenges.

One of Bill's greatest strengths is that he recognizes opportunity and seizes it. As a participant in two landmark environmental policy dialogues convened by The Conservation Foundation under the direction of Bill, I can testify that consensus building can work to solve major environmental disputes and that it is not necessarily an exclusionary process. Furthermore, not only will the NWF support William Reilly's efforts to protect the environment, but we will demand he does so to the fullest of his statutory authority.

President Bush's appointment of William Reilly to be the next EPA Administrator suggests the environmental giant that has been slumbering the past eight years may finally be reawakening. It also suggests the Administration intends to take seriously its responsibility for ensuring that all Americans have clean water to drink, clean air to breathe, and a better environment in which to work and play. This "environmental renaissance" comes none too soon, as so graphically illustrated by *Time* Magazine's unprecedented selection of Earth as its "Planet of the Year." History books will tell us that 1988 was the year the environment spoke back. I will predict that, with William Reilly at the helm of the EPA, 1989 will be recorded as the year the federal government began to listen.

The challenges awaiting the next EPA Administrator are enormous. They range from the global issues of greenhouse effect, tropical deforestation and sea level rise to an array of domestic issues that includes clean air, bioengineering, groundwater pollution, drinking water protection, hazardous waste, pesticides and wetlands. His leadership and skills will be tested at every turn, be it at home or abroad. But, Bill Reilly's leadership and motivation alone will not be enough to get the job done. If this Administration intends to abide by its environmental pledges to the American public, then Bill Reilly will need full support from the White House for his policy initiatives. If this Administration hopes to make a difference on international and domestic environmental issues, then Bill Reilly will need the latitude from the White House to move freely within public and private circles. And, if this Administration hopes to demonstrate environmental accomplishment four years from now, then Bill Reilly will need strong fiscal support from the White House.

One issue of great importance is the degree to which Bill Reilly will be able to act as the Nation's lead official for environmental protection. If past experience is any guide, the Office of Management and Budget (OMB) will seek to insinuate itself into EPA affairs, and to usurp EPA's proper role as primary environmental decision maker. We trust that Bill Reilly will strongly resist OMB pressure to relax or kill regulations needed to protect human health and the environment.

For the past eight years the Administration has treated the EPA as its federal stepchild. For the past eight years the

Administration's preoccupation with national defense has left this Nation environmentally defenseless. We can no longer allow Star Wars to deprive our public of clean water, clean air, and a clean environment. We must insist that our Nation realign its priorities and reject proposals to place military might ahead of what is environmentally right. The NWF intends to devote its energies to seeing that William Reilly be given the resources to fulfill expectations of the American public for a clean and healthy environment.

When Bill Reilly sits down to his desk for the first time as the Nation's guardian of the environment he will face more major policy decisions than any previous incoming EPA Administrator. These decisions will include statutory, administrative, and legal actions and will provide the first clue as to the environmental course Bill Reilly intends to set for our Nation over the next four years. Some of the most pressing decisions, and our views on them, are discussed briefly below.

Comprehensive Clean Air Amendments

President Bush has indicated his support for acid rain legislation and other Administration officials have stated that the White House will propose a comprehensive series of amendments to the Clean Air Act early this year. It therefore appears that drafting a new clean air law will be one of Mr. Reilly's first and most important tasks. The job will not be an easy one. A sound clean air bill will require strong provisions for stopping acid rain and preventing chemical accidents, as well as innovative strategies for eliminating our smog and carbon monoxide problems.

In reviewing the Clean Air Act, it is also critical that new provisions be added to address the problem of toxic air pollution. Since the last amendments to the Act in 1977, we have learned much about the environmental harm caused by the atmospheric transport and deposition of toxic pollutants. For example, scientists have determined that toxic air pollution is the major source of many of the poisons contaminating the Great Lakes. The existing Clean Air Act fails to identify and control the potential sources of these toxics; this must be remedied.

There will be enormous pressures on Mr. Reilly and the Administration to support weak and inadequate solutions to these issues. We are confident these pressures will be ignored and a bill devised that truly protects the public's health. As a member of the National Clean Air Coalition, the National Wildlife Federation looks forward to working with Mr. Reilly in crafting this very important legislation.

Implementation of Superfund

Another issue demanding immediate attention of the new Administrator is effective implementation of Superfund. This critical environmental program embodies a promise from the government to the American public that the Nation's hazardous waste dumps will be cleaned up. However, recent reports by the Congressional Office of Technology, by Clean Sites, Inc. (a coalition of industry, environmental, and academic and other leaders), and by a group of environmentalists and members of the hazardous waste treatment industry, all have sent a clear message. That message is that the Superfund law is fundamentally sound, but to date, despite the best efforts of many of EPA's overworked staff, EPA's implementation and enforcement of it has not been adequate.

The EPA must issue the final blueprint for the Superfund program, the National Contingency Plan, as soon as possible, and without the weakening changes urged by the OMB. We and others have sued EPA in an effort to get the Plan issued. The EPA must also make vigorous enforcement of Superfund, and responsible-party-financed cleanups, a higher priority. Moreover, as the 1986 Superfund amendments made clear, EPA must ensure that cleanups are final, permanent remedies, rather than the stop-gap cleanup jobs that prevail in the program today which may require remedial actions in a few years. Additionally, EPA must make a concerted effort to assure that natural resources damaged at these sites are considered, that the environment as well as human health is protected, and that state and federal natural resource trustees are made real partners in the program, rather than after thoughts.

The NWF recommends that the new EPA Administrator promote and nurture community-based scientific evaluation of Superfund cleanups by expanding dramatically the number and scope of technical assistance grants to grassroots citizens groups. Furthermore, by rigorous enforcement of all provisions and full funding for federal, state and local activities under the Emergency Planning and Community Right-To-Know-Act, the Administrator must reduce the risks of existing and future chemical mayhem in every community in America.

Biotechnology

The safe development of the biotechnology industry will be a major challenge for the EPA in the coming decades. The EPA should lead the Administration's efforts to regulate the environmental risks of genetically-engineered organisms released into the environment. To date, however, the Agency's leadership on biotechnology regulation has been disappointing. Under pressure from OMB, the EPA recently abandoned its badly needed biotechnology rules under TSCA and FIFRA. Without these rules, numerous activities involving genetically-engineered organisms will continue unregulated. We urge Mr. Reilly to exhume the biotechnology rules from the graveyard at OMB and propose them for public comment.

Drinking Water

The EPA is the agency charged with implementing and enforcing the Safe Water Drinking Act. Bill Reilly, therefore, soon will have primary responsibility for ensuring the American public that its drinking water is safe and free from dangerous levels of contaminants. As documented by an October, 1988 NWF report, and by a recent report by the EPA Inspector General, there are over 100,000 violations of the law annually. The EPA's enforcement against those violations is woefully inadequate, and the health of many millions of Americans is being put at risk. EPA's enforcement budget for the public water supply system, which regulates the safety of the drinking water for over 200 million Americans, is tiny, only about $2 million --about a penny each year per person drinking the water. The EPA also is not assuring that states with primary enforcement responsibility for the Act are doing their jobs, and the Agency has adopted enforcement policies that plainly violate the law. The Agency has even failed, for at least a decade, to provide Congress with the required annual report on implementation of, and problems in, the program.

After repeated unsuccessful efforts to resolve this issue, we have been left with no other option but to sue EPA for this breakdown. That we have had to take the EPA to court to ensure that citizens of this Nation have clean and safe water drinking supplies is unsettling, to say the least. Although we do not intend to alter our present course of action --or, for that matter, any other actions against EPA warranting litigation-- we urge Mr. Reilly to work closely with us on this issue to ensure its timely and satisfactory resolution.

Water Quality

The emergence of global environmental problems highlights the need for cooperative, international solutions. Obviously, the EPA must play a leadership role in representing the United States in international forums dealing with these problems. The EPA's credibility and ability to play this leadership role will depend, in part, on its record in implementing the few, existing models for international cooperation. One of the most important models for this is the Great Lakes Water Quality Agreement.

Unfortunately, EPA's record in implementing it is lacking. Despite Congress' explicit charge to EPA in Section 118 of the 1987 Water Quality Act that the Agency should implement the

Agreement, EPA continues to view it as nothing more than unenforceable goals. The NWF believes the Agreement is legally binding and must be enforced by the EPA. We have recently petitioned EPA to apply the terms of the Agreement in the Agency's review of proposed revisions to Wisconsin's water pollution control program. The EPA response to NWF's petition will indicate whether the Agency is serious about implementing the Agreement and whether EPA is prepared to assume a leadership role on the international stage.

Office of Federal Activities

One of the most important responsibilities of the EPA Administrator is to comment in writing on all draft and final environmental impact statements (EISs) of every Federal agency. The Office of Federal Activities (OFA), which carries out this function, is also required to send any environmentally unsatisfactory proposals to the Council on Environmental Quality (CEQ) for resolution. To the best of our knowledge, EPA has referred only one issue to CEQ during the past eight years, as compared to thirteen referrals in the previous six years.

In spite of severe program cuts, the OFA has performed reasonably well in carrying out its oversight functions regarding the National Environmental Policy Act (NEPA). Nevertheless, it has not been able to pay sufficient attention to cumulative impacts of several proposed actions. Moreover, it failed to refer several seriously deficient project proposals to the CEQ. The OFA should establish an agreement with CEQ to provide clear understanding of the OFA's NEPA responsibilities that will be consistent with EPA efforts to oversee the NEPA process more aggressively. But, in order to make the OFA more effective, Bill Reilly must be assured that the CEQ has the capibility and commitment to review and resolve difficult environmental issues.

Pesticides

Oversight and implementation of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) is another statutory responsibility which demands immediate attention of the new Administrator. Since publication in 1962 of Rachel Carson's seminal analysis of the pesticide problem, Silent Spring, the use of pesticides in the United States and abroad has climbed to frightful proportions --nearly 1 billion pounds per year in the United States alone. Pesticide problems have proliferated in an atmosphere where public health and environmental protection have too often taken a back seat to narrowly defined economic benefits.

Bill Reilly will need to become a forceful advocate for environmental protection from pesticide pollution, solving the registration and enforcement failures in existing programs and addressing in a comprehensive way other major pesticide problems: increasing and pervasive groundwater contamination, toxic and carcinogenic residues in food, inadequate worker protection standards, and the on-going threats to endangered species. On this final point --impacts of pesticides to endangered species-- there is one action Bill Reilly should review and on which he should take action immediately: cancellation of the registration of carbofuran. The evidence is overwhelming that this widely-used pes~~ticide has~~ killed thousands of birds, including at least 10 endangered bald eagles. With the availability of cost-effective alternatives to carbofuran which are less hazardous to birds, the EPA should move swiftly to ban this unreasonably hazardous pesticide.

Groundwater Protection

The Nation has adopted what amounts to a penny wise and pound foolish national policy on groundwater. While spending billions of dollars to clean up toxic, hazardous and radioactive wastes after the fact, the Nation should adopt a comprehensive federal law mandating groundwater protection before the fact. Protection is far less expensive than, and is environmentally preferable to, cleanup. Such a law should require protection from all major sources of groundwater pollution, and should assure that all states have adequate programs to protect human health and the environment from the effects of groundwater pollution.

As President of The Conservation Foundation, Bill Reilly worked on the National Groundwater Policy Forum's recommendations that included a recommendation that federal groundwater protection legislation be adopted. We hope Mr. Reilly will continue to work towards adoption of this critically-needed legislation.

Wetlands

As convenor of the National Wetlands Policy Forum, Bill Reilly was personally involved with development of the more than 100 Forum recommendations intended to improve the Nation's wetlands protection programs. He, therefore, fully understands the urgency attendant this issue and the need to immediately initiate and implement policy, legislative, and administrative actions to better manage and protect the Nation's ever-diminishing wetlands base. The NWF urges Mr. Reilly to continue making wetlands protection one of his highest priorities and to build on the momentum and positive climate now prevailing to make bold advances on the issue.

There are a number of specific actions on which we urge Mr. Reilly to commence work. First is to provide the EPA's Office of Wetlands Protection heightened visibility, greater influence, and increased resources. Similarly, the EPA Administrator should elevate the Agency's wetlands field presence and ensure that its nine Regional Administrators not only are committed to protecting wetlands, but that they will be expected to exercise their full statutory authorities to protect the Nation's wetlands. Second, we urge Mr. Reilly to implement aggressively the EPA's "Wetland Action Plan" signed by former EPA Administrator Lee Thomas just days ago. Third, NWF recommends EPA make greater use of its Clean Water Act Section 404 veto authority to protect wetlands. Finally, we encourage EPA to begin development immediately of a new Executive Order on wetlands that establishes "no-net-loss" of the Nation's wetlands inventory as its short term goal and increase of the Nation's wetlands inventory as its long term goal. We also urge the EPA, under the direction of Mr. Reilly, to begin working at once with the Congress in developing comprehensive wetlands protection legislation that builds on the recommendations contained in the National Wetlands Policy Forum Report.

Establishing the Department of Environmental Protection

This Administration has a unique opportunity to make a significant structural change in national environmental policy by supporting elevation of the EPA to a Cabinet level and creating a Department of Environmental Protection. The NWF has actively supported these efforts in the past and we intend to intensify our support for these efforts in the future.

Earlier this year a bipartisan group of Congressmen hosted a press conference to announce they will introduce legislation to elevate the EPA to a Cabinet level position. According to Representative James Florio of New Jersey, one of the bill's cosponsors, "I want President Bush to be able to look across his Cabinet table and directly question a member...about the environment". The NWF couldn't agree more with Mr. Florio. We are eager to have Mr. Reilly take his seat at the Cabinet table and will continue pressing to see him sworn in as this Nation's first Secretary of Environmental Protection.

To conclude, William K. Reilly is a capable, serious, intelligent gentleman who --if anyone-- can make the Administration's next four years "kinder" and "gentler" to the environment. Therefore, the National Wildlife Federation urges this Committee to act expeditiously and favorably on this nomination. There is no more time to waste and no more need for debate. Thank you.

21st CENTURY
SCIENCE & TECHNOLOGY
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Testimony of 21st Century Science Associates To the Senate Committee on Environment and Public Works

On the nomination of William Reilly as administrator of the Environmental Protection Agency

January 31, 1989

Testimony of 21st Century Science Associates
To the Senate Committee on Environment and Public Works
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21st Century Science Associates is the publisher of a bimonthly science magazine, 21st Century Science & Technology, based in Washington, D.C. The appointment of William Reilly as administrator of the Environmental Protection Agency would be a costly blunder for an administration committed to seeing this nation remain as an industrial leader.

Mr. Reilly has headed up two organizations, the World Wildlife Fund and the Conservation Foundation, that are dedicated to policies that 200 years ago would have kept the United States as a backward, rural colony, perhaps where the European elite could have come on hunting expeditions in the vast Western lands. Fortunately, our founding fathers had other ideas. They fought a war to establish this nation as a republic dedicated to progress--progress achieved by advancing science and technology. They fostered industry and the building of infrastructure to facilitate development. Their idea was sound: Man's mind was capable of inventing the means of making muscle-power and primitive technologies obsolete. Therefore, to grow, the nation should do everything possible to ensure the development of the minds of the population.

Today, the organizations Mr. Reilly heads are the champions of the same feudalist views that this nation was established to eliminate. Such environmentalists place Nature on a higher level than man, and give animals-- and even insects and weeds--"equal rights." This political philosophy of environmentalism is not just another opinion. When put in to practice, as it has been throughout the history of the EPA, environmentalism KILLS PEOPLE in the name of protecting the environment.

We will be very specific, taking the cases of DDT and dieldrin, both of which were life-saving pesticides banned by two former administrators of the EPA who are the mentors of Mr. Reilly.

First, DDT:

In 1971, the EPA held seven months of hearings on the DDT issue, with testimony that filled 9,000 pages. The EPA hearing examiner, Edmond Sweeney, made his official decision April 26, 1972, stating: DDT is not a carcinogenic hazard to man. DDT is not a mutagenic or teratogenic hazard to man. The uses of DDT under the regulations involved here do not have a deleterious effect on freshwater fish, estuarine organisms, wild birds, or other wildlife.... The evidence in this proceeding supports the conclusion that there is a present need for the essential uses of DDT." The EPA administrator, William Ruckelshaus, who now is a board member of the Conservation Foundation, singlehandedly overturned this EPA ruling and banned DDT in 1972 for what he admitted were "political" reasons. As Ruckelshaus said in 1979, "Science, along with other disciplines such as economics, has a role to play. The ultimate judgment remains political. In the case of pesticides in our country, the power to make this judgment has been delegated to the administrator of EPA." Second, the dieldrin case:

Russell Train, who succeeded Ruckelshaus as EPA administrator in September 1973, and who is now the chairman of the World Wildlife Found and the Conservation Foundation, banned the chemical dieldrin in October 1974. Train took this action contrary to the advice of the Aldrin/Dieldrin Advisory Committee to the EPA as well as several other committees appointed by other government agencies. In addition, Train redefined the word "carcinogenic," which previously had been defined by all scientific agencies concerned to mean substances that cause cancerous tumors. Train decided that carcinogenic would henceforth be synonymous with "tumorogenic." These political decisions of EPA administrators Ruckelshaus and Train were at the behest of the environmentalist lobby, the same lobby for which Mr. Reilly is working. This lobby still brags about its role in banning these and other pesticides. The consequences can be measured in human lives lost.

Entomologist J. Gordon Edwards, who has taught biology and entomology at San Jose State University in California for 40 years, estimated that 100 million people die per year as a result, directly and indirectly, of these and other antipesticide activities here in the United States. Edwards, who is a longtime member of the Sierra Club and the Audubon

Society and a fellow of the California Academy of Sciences, says that this estimate is probably conservative.

There is every indication that Mr. Reilly will continue in the tradition of Mr. Ruckelshaus and Mr. Train, making decisions that will kill people in the name of protecting the environment. Therefore, we are opposed to the nomination of Mr. Reilly as head of the EPA.

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